

**A STUDY OF AL-SHA'RĀNĪ'S AL-MIZĀN AL-
KUBRĀ**

IN THE NAME OF ALLĀH

by

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ABSTRACT

This thesis is an analysis of the work *al-Mīzān al-Kubrā* by an Egyptian scholar of the 10th century *h.*, al-Sha'rānī. This work is essentially an attempt to bring about a reconciliation between the four *sunnī madhāhib*. The author has been very much influenced by *ṣūfī* thought. The thesis is divided into: An introduction, which apart from introducing the subject, also traces the life of the author, and the factors which contributed towards him writing the book. In Chapter 1, al-Sha'rānī's main argument on the nature of *sharī'ah* and causes of differences is presented. Chapter 2 consists of an analysis of the structure, style and approach of the work. In Chapter 3, there is an analysis of al-Sha'rānī's attitude towards *sunnah* and *ḥadīth*. Chapter 4 deals with al-Sha'rānī's views concerning the different *madhāhib*. In Chapter 5, there is a detailed examination of al-Sha'rānī's doctrines on *Islāmic* legal reasoning. Chapter 6 tries to trace the origin of his theory of *takhfīf* and *tashdīd*. The conclusion assesses al-Sha'rānī's contribution to the reconciliation of the *madhāhib*. This is followed by appendices and a bibliography.

NOTES ON transliteration

This study follows the system of transliteration of the United States Library of Congress as outlined in the *Cataloging Service Bulletin* No. 49 (November, 1958). However, the *tā' marbūṭah* has been written as "h" at the end of a word when it is not part of the *idāfah* construction, in which case it is written as a "t".

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The quotations from the *Qur'ān* are mostly translated directly from the Arabic. However, occasional references to the translation of A. Yusuf Ali are made when necessary.

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Following the thesis writing requirement in the United Kingdom, I have omitted the phraseology of praise after mentioning the name of the Prophet and other savants of *Islām*. This should not be taken as my wilful omission of these phrases. However, it is my intention that the reader should understand them whenever the Prophet and the savants are mentioned.

LIST OF ABBREVIATIONS

The following list represents the books cited more frequently in this thesis. The abbreviations of other works which are less frequently cited are mentioned at their first citations and the phrase *op.cit.* is used in their subsequent citations.

<u>Afandi</u>	- <i>Daftar Kutubkhanah 'Asad Afandī.</i>
<u>Aḥmadiyyah</u>	- <i>Fihris makḥṭūṭāt al-Maktabah al-Aḥmadīyah bi Tūnis.</i>
<u>A'lām</u>	- <i>Ziriklī, al-A'lām.</i>
<u>Amījah</u>	- <i>Daftar Kutubkhanah 'Amījah Husayn Pasha.</i>
<u>'Ashir</u>	- <i>Daftar Kutubkhanah 'Ashir Afandi.</i>
<u>Azhar</u>	- <i>Fihris al-Kutub al-Mawjūdah bi al-Maktabah al- Azhariyyah.</i>
<u>Bankipore</u>	- <i>Catalogue of the Arabic Manuscripts in the Oriental Public Library at Bankipore.</i>
<u>Başmalar</u>	- <i>Istanbul Universitesi Kutuphanesi Arapca Başmalar Alfabe Katalogu.</i>
<u>Batavia</u>	- <i>Codicum Arabicorum In Bibliotheca Societalis Artuum et Scientiarum Quae Bataviae Floret Asservatorum.</i>
B.H.	- Before Hijrah.

<u>BN</u>	- <i>Bibliothèque Nationale: Catalogue des Manuscrits Arabes de Nouvelles Acquisitions 1884-1924.</i>
b	- bin (son of).
bt.	- bint (daughter of).
<u>Bulletin</u>	- <i>The Bulletin of Arab publications for 1971.</i>
<u>Bukhārī</u>	- al-Bukhārī, Ṣaḥīḥ Abī ‘Abd Allāh al-Bukhārī.
<u>CAB</u>	- <i>Catalogue of Arabic Books in the British Museum</i>
<u>CCO</u>	- <i>Catalogus Codicum Orientalium.</i>
<u>Chester</u>	- <i>The Chester Beatty Library: A Handlist of the Arabic Manuscripts.</i>
<u>Chicago</u>	- <i>A Catalogue of Arabic Manuscripts in the Oriental Institute of Chicago.</i>
<u>Codicum</u>	- <i>Catalogus Codicum Manuscriptorum Orientalium.</i>
<u>Daftar</u>	- <i>Daftar Kutubkhanah Wali al-Din.</i>
<u>DAPT</u>	- <i>Die Arabischen, Persischen und Turkischen Handschriften der Kaiserlich-Königlichen Hofbibliothek.</i>
<u>Dār</u>	- <i>Fihris al-Kutub al-‘Arabīyah al-Mawjūdah bi al-Dār.</i>
<u>Daud</u>	- <i>Daftar Kutubkhanah Daud Ibrahim Pasha.</i>
<u>Dāwūd</u>	- al-Sijistānī, <i>Sunan Abī Dawūd.</i>
<u>DCOM</u>	- <i>A Descriptive Catalogue of the Oriental Manuscripts Belonging to the Late E. G. Browne.</i>
<u>DI</u>	- <i>Fihris al-Makḥṭūṭāt nashara bi al-Makḥṭūṭāt allatī iqtanathā al-Dār min 1936-55.</i>
<u>Dībāj</u>	- Ibn Farḥūn, <i>Dībāj al-Madḥhab fī ma‘rifah A‘yān al-Madḥhab.</i>

<u>ed.</u>	- edited by.
<u>edi.</u>	- edition.
<u>EI</u>	- <i>Encyclopaedia of Islam</i> .
<u>EIN</u>	- <i>Encyclopaedia of Islam (New Edition)</i> .
<u>EORE</u>	- <i>Encyclopaedia of Religion and Ethics</i> .
<u>FEI</u>	- <i>E.J. Brill's First Encyclopaedia of Islam</i> .
<u>Fihrist</u>	- Ibn Nadīm, <i>Kitāb al-Fihrist</i> .
<u>Findek</u>	- <i>Iktifā al-Qanū'a bi mā huwa maṭbū'.</i>
<u>GAL</u>	- <i>Geschichte der Arabischen Litteratur</i> .
<u>GALS</u>	- <i>Supplement to Geschichte der Arabischen Litteratur</i> .
<u>Garrett</u>	- <i>Catalogue of Arabic Manuscripts (Yahuda Section) in the Garrett Collection of Princeton University Library</i> .
<u>al-Ghawwās</u>	- al-Sha'rānī, <i>Durar al-Ghawwās fī fatāwā al-Khawwās</i> .
<u>Gotha</u>	- <i>Die Arabischen Handschriften der Herzoglichen Bibliothek Zu Gotha</i> .
<u>h. / h.</u>	- <i>hijrī</i> .
<u>Hammd</u>	- <i>Hammdīye Kutubkhanah. Daftar I</i> .
<u>Hilyat</u>	- <i>Hilyat al-Awliyā'</i> .
<u>HOM</u>	- <i>Handlist of Oriental Manuscripts</i> .
<u>Hughes</u>	- <i>Hughes, Dictionary of Islam</i> .
<u>Ibadan</u>	- <i>A Catalogue of the Arabic Manuscripts Preserved in the University Library, Ibadan, Nigeria</i> .
<u>'Ibar</u>	- al-Dhahabī, <i>al-'Ibar fī khabar man ghabar</i> .

<u>Ibn Sa'd</u>	- Ibn Sa'd, <i>al-Ṭabaqāt al-Kubrā</i> .
<u>Ibn al-Subkī</u>	- Ibn al-Subkī, <i>Ṭabaqāt al-Shafi'iyyah al-Kubrā</i> .
<u>IGM</u>	- <i>Index General de Manuscrits Arabes Musulmans de la Bibliotheque Nationale de Paris</i> .
<u>IJMES</u>	- <i>International Journal of Middle Eastern Studies</i> .
<u>Intiqā'</u>	- Ibn 'Abd al-Barr, <i>al-Intiqā' fī faḍā'il al-Thalāthat al-A'immat al-Fuqahā'</i> .
<u>I'tidāl</u>	- al-Dhahabī, <i>Mizān al-I'tidāl fī naql al-Rijāl</i> .
<u>IO</u>	- <i>Catalogue of the Arabic Manuscripts in the Library of the India Office</i> .
<u>IQ</u>	- <i>Arabic Book Journal Quarterly</i> .
<u>JAOS</u>	- <i>Journal of American Oriental Society</i> .
<u>JKV</u>	- Johnson, <i>The Unerring Balance: A Study of the Theory of Sanctity (Wilāyah) of 'Abd al-Wahhāb al-Sha'rānī</i> .
<u>JSS</u>	- <i>Journal of Semitic Studies</i> .
<u>K</u>	- <i>Kitāb</i> .
<u>Kaḥḥālah</u>	- Kaḥḥālah, <i>Mu'jam al-Mu'allifīn: Tarājim muṣannifī al-Kutub al-'Arabīyah</i> .
<u>al-Kawākib</u>	- al-Gazzī, <i>al-Kawākib al-Sā'irah bi a'yān al-Mi'at al-'Āshirah</i> .
<u>Khalīfah</u>	- Khalīfah, <i>Kashf al-Zunūn 'an asāmī al-Kutub wa al-Funūn</i> .
<u>Khidiwiyyah</u>	- <i>Fihrist al-Kutub al-'Arabiyyah al-Maḥfūzah bi al-Kutub-khānah al-Khidiwiyyah</i> .
<u>Khizānah</u>	- <i>Fihris al-Khizānat al-Taymūriyyah</i> .
<u>LAM</u>	- <i>A List of Arabic Manuscripts in Princeton</i> .

University Library.

- LCC - *The Library of Congress Catalog: The National Union Catalog (1973-7).*
- LDMB - *Legal Deposit Monthly Bulletin for November 1970 and for January-March 1977.*
- MA - *Manuscripts d'Afghanistan..*
- Ma'ārif - *Ibn Qūṭaybah, al-Ma'ārif.*
- Madras - *A Descriptive Catalogue of the Islāmic Manuscripts in the Oriental Manuscripts Library, Madras.*
- Madrid - *Catalogue de los Manuscritos Arabes Existentes en la Biblioteca Nacional de Madrid.*
- Ma'had - *Ma'had al-Makḥṭūṭāt al-'Arabīyah: Fihris al-Makḥṭūṭāt al-Muṣawwarah.*
- Mājah - *Mājah, Sunan al-Muṣṭafā wa huwa sunan Ibn Mājah.*
- al-Manāqib - *al-Malījī, Kitāb al-Manāqib al-Kubrā: Tadhkirat ulī al-Albāb fī manāqib al-Sha'rānī 'Abd al-Wahhāb.*
- Mingana - *Catalogue of the Arabic Manuscripts in the John Rylands Library Manchester.*
- al-Mizān - *al-Sha'rānī, al-Mizān al-Kubrā.*
- MJK - *Majallah Ma'had al-Makḥṭūṭāt al-'Arabīyah.*
- MMA - *Majallah al-Makḥṭūṭāt al-'Arabīyah for 1963, 1964 and 1969.*
- Mosul - *Kitak Makḥṭūṭāt al-Mawsil.*
- MT - *Makḥṭūṭāt al-Ta'rīkhīyah.*
- Mu'jam - *Mu'jam al-Maṭbū'āt al-'Arabīyah wa al-Mu'arrabah.*

<u>Muslim</u>	- <i>Ṣaḥīḥ Muslim al-Musammā al-Jāmi' al-Ṣaḥīḥ.</i>
<u>MW</u>	- <i>The Muslim World Quarterly.</i>
<u>NC</u>	- <i>The National Union Catalog (Pre-1956 imprints).</i>
<u>NMM</u>	- <i>al-Nashrah al-Marḍiyyah li al-Maṭbū'ah: 1966-7.</i>
<u>NUC</u>	- <i>The Library of Congress Catalog: The National Union Catalog (1963-7).</i>
<u>Nuskh</u>	- <i>Fihrist-i Nuskhaha-i Khattiyi Kitābkhāna-i Dānishkada-i Ilāhīyāt va Ma'ārif-i Islāmi.</i>
<u>Osman</u>	- <i>Nur Osmaniye Kutuphanesi Katalogu.</i>
<u>Oster</u>	- <i>Katalogue der Arabischen Handschriften der Österreichischen Nationalbibliothek.</i>
p. / pp.	- page / pages.
<u>PAM</u>	- <i>Catalogue of the Persian and Arabic Manuscripts of the Saulat Public Library.</i>
<u>Pāshā</u>	- <i>al-Baghdādī, Hadiyyat al-'Ārifīn asmā' al-Mu'allifīn wa āthār al-Muṣannifīn.</i>
<u>Princeton</u>	- <i>Descriptive Catalogue of the Garrett Collection of Arabic Manuscripts in the Princeton University Library.</i>
<u>Qūniyyah</u>	- <i>al-Makḥṭūṭāt al-'Arabiyyah fī maktabat muthāf (Mawlānā) fī Qūniyyā.</i>
<u>Rabat</u>	- <i>Catalogue de Manuscripts Arabes de Rabat Deuxieme Series I 1921-53.</i>
<u>Salā</u>	- <i>Fihris al-Khizānat al-'Ilmiyyat al-Subayhiyyah bi Salā.</i>
<u>SAP</u>	- <i>Supplementary Catalogue of Arabic Printed Books in the British Museum.</i>
<u>Shadharāt</u>	- <i>Ibn 'Imād, Shadharāt al-Dhahab.</i>

<u>al-Shīrāzī</u>	- al-Shīrāzī, <i>Ṭabaqāt al-Fuqahā'</i> .
<u>Sindah</u>	- Jami' Kutubkhanah Sindh.
<u>Slane</u>	- Catalogue des Manuscrits Arabes.
<u>Tabyīn</u>	- Ibn 'Asākir, <i>Tabyīn al-Kadhib al-Muftarā fī mā nusiba ilā Abī al-Ḥasan al-'Ash'arī</i> .
<u>Tadhkirah</u>	- al-Dhahabī, <i>Tadhkirat al-Ḥuffāz</i> .
<u>Taghribirdī</u>	- Ibn Taghribirdī, <i>al-Nujūm al-Zāhirah fī mulūk Miṣr wa al-Qāhirah</i> .
<u>Tahānawī</u>	- al-Tahānawī, <i>Kitāb kashshāf iṣṭilāḥāt al-Funūn</i> .
<u>Tahdhīb</u>	- al-'Asqalānī, <i>Tahdhīb al-Tahdhīb</i> .
<u>Taqrīb</u>	- al-'Asqalānī, <i>Taqrīb al-Tahdhīb</i> .
<u>al-Ta'rīfāt</u>	- al-Jurjānī, <i>al-Ta'rīfāt</i> .
<u>Tārīkh</u>	- al-Baghdādī, <i>Tārīkh Baghdād</i> .
<u>TBM</u>	- <i>A Descriptive List of the Arabic Manuscripts Acquired by the Trustees of the British Museum since 1894</i> .
<u>Tehran</u>	- <i>Fihrist-i naskhha-i khaṭṭī</i> .
<u>TH</u>	- <i>Ṭabaqāt al-Ḥanābilah</i> .
<u>TKS</u>	- al-Sha'rānī, <i>al-Ṭabaqāt al-Kubrā</i> .
<u>TS</u>	- al-Sha'rānī, <i>al-Ṭabaqāt al-Suḡhrā</i> .
<u>Turāth</u>	- <i>Akhhbār al-Turāth al-'Arabī nashratun yaṣḍuruhā ma'had al-Makhtūṭāt al-'Arabiyyah</i> .
<u>'Umayrah</u>	- 'Umayrah, <i>Kitāb al-Mīzān li al-Imām 'Abd al-Wahhāb al-Sha'rānī</i> .
<u>VA</u>	- <i>Verzeichnis der Arabischen Handschriften der universitätsbibliothek Zu Tübingen</i> .
<u>Vatican</u>	- <i>Elence dei Manoscritti Arabi Islāmici della Biblioteca Vaticana</i> .

vols.

- volumes.

Vivantes

- *Catalogue de la Bibliothque de Paris l'Ecole des Langues Orientales Vivantes.*

Wafayāt

- Ibn Khallikān, *Wafayāt al-A'yān.*

Wakf

- *al-Kachchaf Catalogue Generale des Manuscrits Arabes de la Bibliotheque Generale des Wakfs de Bagdad.*

al-Waraqah

- Ibn al-Jarāh, *al-Waraqah.*

Winter

- Winter, *Society and Religion in Early Ottoman Egypt: Studies in the Writings of 'Abd al-Wahhāb al-Sha'rānī.*

Yāqūt

- al-Ḥamawī, *Kitāb irshād al-Arīb ilā ma'rifat al-Adīb al-Ma'rūf bi mu'jam al-Adibbā' aw ṭabaqāt al-Adibbā'.*

Zāhirīyah

- *Fihris makḥṭūṭāt dār al-Kutub al-Zāhirīyah.*

ZDMG

- *Zeitschrift der Deutschen Morgenlandischen Gesellschaft.*

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DECLARATION

I, the undersigned, do hereby truly declare that this thesis has been written by me and does not represent the work of any other person.

(~~Hikmatullah~~ Babu Sahib)

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DEDICATION

I dedicate this work to the loving memory of my paternal
grandparents

MOULAVI MUḤAMMAD ḤASBULLĀH ṢĀḤIB

&

MADAM 'Ā'ISHAH THAMĪNAH

May the Almighty Allāh enshroud them with His infinite mercy
and everlasting bliss.

Āmīn!

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INTRODUCTION

Works on *ikhtilāf* (legal differences) are many.¹ Most of such works merely state the differences between the various schools of law (*madhāhib*),² without attempting to synthesise or reconcile such *ikhtilāf*. Only a few scholars have attempted to bring about a reconciliation between the *madhāhib*.³ One such person is an Egyptian born *ṣūfī*-scholar of the 10th century *h.*, 'Abd al-Wahhāb al-Sha'rānī.⁴ This thesis is a study of his monograph, entitled *al-Mīzān al-Kubrā* [The Greatest Balance],⁵ hereafter referred to as *al-Mīzān*, which was written sometime around 950 *h.*, during the Ottoman Conquest of Egypt. This work was written with a view to forging unity in the ranks of various *madhāhib*, particularly the four main *sunnī* legal *madhāhib*.⁶

Al-Sha'rānī's firm belief is that these *madhāhib* do not represent the existence of four completely different sets of *Islāmic* Law. They are there to signify the different shades of meaning and interpretations of one and the same law. These different shades of meaning and interpretations are mainly resultant from the ambiguity (i.e. plurality of application) of certain words in the *Qur'ān* and the *sunnah*⁷ and the strength or weakness of the chains of reporters of the various *sunan*⁸ judged by the individual *mujtahids*,⁹ who are fit for double reward, if their judgement was right in the eyes of God, and for a single reward, even if their judgement was wrong in His eyes.¹⁰ This underlines the fact that despite their judgements

ranging from right to wrong, all of them are still fit for reward, because, by so judging, they would not have gone outside the parameters of the Divine Law as contained in the *Qur'ān* and the *sunnah* and because, despite their differences of opinion their sincere aim in practising *ijtihād*¹¹ was to deduce correctly the laws from the *Qur'ān* and the *sunnah* with sincerity to God and the Messenger of God. This only proves the flexibility of the law as contained in the *Qur'ān* and the *sunnah*. It is because of that flexibility that it is said that the difference of opinion among the *a'immah*, i.e. the *mujtahids*, is a Divine Mercy unto the *ummah*,¹² because, if not for the ambiguity of certain words employed in the *Qur'ān* and the differing reports of the *ḥadīth* and the difference of opinion based on the different interpretations of those things by the *mujtahids*, *Islāmic* Law would have been more rigid. Therefore, those differences of opinion and their causes are regarded as a manifestation of Divine Mercy to the *ummah*. Thus, those differences of opinion and the resultant differences of the *madhāhib* have not affected the essential "oneness" of the nature of the *Islāmic* Law and the natural jurisprudential concord between the four *sunni* legal *madhāhib* in *Islām*. For *sunni*sm is based on certain doctrinal constants and they did not permit any doctrinal variables to penetrate their midst. And they had a set of jurisprudential constants on which all of them agreed and they only differed in opinion in respect of the jurisprudential variables. These variables provides for a diversity within the essential unity of the *sharī'ah* or *Islāmic* Law. These variables are based on the *quwwah* (strength) and *ḍu'f* (weakness) of *mukallafs* (i.e. those who are subject to the demands of the *sharī'ah*) in respect of their *īmān* (belief) and their physical capacity, which will vary at different times of their lives. Therefore, they are addressed with the

two aspects of the *sharī'ah*, *amr* (injunction) and *nahy* (prohibition), on the two grades of *takhfīf* (lightening) and *tashdīd* (hardening). For, those who are strong have been addressed by the rigorous aspect of the law and urged to carry out the *'azīmah* (determination to do a thing as is required) and those who are weak are addressed by the lighter aspect of the law and to avail themselves of the *rukḥṣah* (Divine concession or privilege). Both groups of people will be considered to have obeyed one and the same *sharī'ah* from their Lord. Therefore, in deducing any particular law from the sources, the criteria of the *madhāhib* fluctuate between the two sides of the balance of the rigorous and lighter aspects on the basis of the strength and weakness of the people to whom the law is addressed. It is on this balance that the *madhāhib* reach their jurisprudential concord in respect of the jurisprudential variables. It is as though an agreement to disagree on the particular law brings about an agreement to use all the various possibilities of interpretation and shades of meaning without neglecting any of two differing *sunnahs* or opinions, because it indicates the completeness of the position of *īmān* (belief).

The Islamic Lawyers, (i.e.: the *fuqahā'*), including the *mujtahids* themselves, did not have any reservation against learning from, or teaching, one another's *Islāmic* jurisprudence, despite the difference in their schools of law and jurisprudence. This further proves that, in spite of their differences, they were members of one single integrated jurisprudential movement. This has to be established on the basis of their student-teacher relationship that existed amidst the leaders (i.e. Singular *īmām* and plural *a'immah*) of the four *sunnī* legal *madhāhib* and their respect for each other.¹³ Further, these four *madhāhib* have not necessitated the setting up of four distinct churches in *Islām*, contradicting

each other. Any Muslim of any of the four *madhāhib* is free to say his *ṣalāt* in any of the *ṣunnī* mosques (*masājīd*)¹⁴ in any part of the world, according to the *madhhab* he practises and he may also follow, in his *ṣalāt*, any *imām* (prayer leader) who practises any other of the four schools of law. Therefore, it is unthinkable that *Islām* which came to establish and maintain harmony and peace amongst mankind is itself the cause for disharmony and discord amidst its own people. It is with such beliefs that al-Sha'rānī came to write the *Mīzān*.

Sources:

The primary source for this study is, of course, *al-Mīzān*. This work has undergone many imprints, a few editions and two translations. The first edition was done in 1862 by Ḥasan al-'Adawī, while the second edition was by Qāḍī Binyamīn in 1869. This second edition was the page-for-page reprint of the Cairo edition with occasional marginal glosses.¹⁵ In the following year a French scholar Dr. Perron¹⁶ attempted a brief translation of *al-Mīzān*, omitting a number of sections, including the entire sections dealing with purely ritual matters as well as those concerned with slaves. In his introduction, Perron states that he chose to translate *al-Mīzān* because al-Sha'rānī's declared intention was to seek a compromise between the teachings of the four *madhāhib*, whereby a measure of flexibility would be introduced into the law of *Islām*.¹⁷ This work was edited by Jean Dominique Luciani and was published by the Gouvernement General de l' Algerie in 1898. Even this edition is short of proper footnotes and commentary. After a gap of almost a century, an Indonesian scholar, Dr. Hj. O.K. Rahmat S.H., translated with some annotation, *al-Mīzān* into Bahasa Malaysia (Malay Language), in 1977,

under the title: *Neraca Raya (Al-Miyzaanu'l-Kubraa): Perbandingan Mazhab-Mazhab Fiqh*.¹⁸ This edition also lacks proper footnotes and commentary. In 1989 Dr. 'Abd al-Raḥmān 'Umayrah edited *al-Mīzān* for the third time. This edition abounds with mistakes both factual and typographical. For example, the editor has said Shihāb al-Dīn al-Ḥanbalī al-Futūḥī¹⁹ was as Aḥmad b Ḥanbal.²⁰ However, al-Malījī²¹ has mentioned him among al-Sha'rānī's teachers.²² Further the editor has failed to include elucidations of *ṣūfī* terms. In explaining this omission, Dr. 'Umayrah states at the end of the third volume that the explanation of these *ṣūfī* terms will be treated separately in another edition.²³ He also omitted al-Sha'rānī's conclusion.²⁴ On the whole it is an unsatisfactory edition. In my study of *al-Mīzān*, I have used the 1962 imprint, on the margin of which another *ikhtilāf* work is printed.²⁵

These printed versions of *al-Mīzān* were compared with a handwritten manuscript which I procured from the British Library (O/C 1607 no. Or 4298). Apart from these works I have also referred to other works of al-Sha'rānī both in manuscripts and in prints. Further references to works on biographical details, books of *fiqh*, *taṣawwuf*, *uṣūl*,²⁶ *'aqā'id*, *ḥadīth* and history are made.

Methodology:

In this study, I have tried to collate the author's thoughts on various jurisprudential issues which are scattered throughout *al-Mīzān*, and reorganise them under relevant topics. Further I have tried to reshape his theory of *takhfīf* and *tashdīd* into a logical paradigm and to trace the origin of this theory. Moreover, I have taken into consideration the historical factors which had contributed towards his composing this

balance. Therefore, this introduction will look into al-Sha'rānī's life and those factors which have contributed in his zeal to find a compromise between the four *madhāhib*.

Life of al-Sha'rānī:

Al-Sha'rānī traced his descent back to 'Alī.²⁷ He was the descendant of Muḥammad b al-Ḥanafiyyah,²⁸ the son of 'Alī b Abū Ṭālib by his second wife.²⁹ His ancestors migrated to the far west in an attempt to escape the continued persecution of the household of the 'Alawites³⁰ (*bait al-'alawiyyah*) by both the Umayyads and the Abbasids. However, the 'Alawites failed to find unity among themselves and disintegrated into multitudes of petty kingdoms and households. Such a kingdom was the city of Tilmisān³¹ and its dependencies. This was under the suzerainty of the tribe Banū Zughlā³² to which al-Sha'rānī traces his ancestry.

The 'Alawites claimed that there was combined in them the spiritual and temporal leadership. Thus one could find in the history of Banū Zughlā, elements of leadership and *ṣūfīsm*. Al-Sha'rānī's ancestor Mūsā b al-Sulṭān Aḥmad³³ preferred *ṣūfīsm* to rule and its glory. He became the disciple of 'Alī b Madyan³⁴ and left for Egypt in pursuit of this aim³⁵.

It is not clear when Mūsā went to Egypt. However, he established his base in a village in upper Egypt and started his spiritual mission. Mūsā's family continued to stay there till the beginning of 9th century *h.*, when his grandson Aḥmad Shihāb al-Dīn³⁶ moved to the village of Sāqiyat Abū Sha'rā in the province of Munūfiyyah³⁷ where he established a religious seminary (*zāwiyyah*)³⁸ for learning and worship.

Aḥmad married a woman descended from the *Anṣār*³⁹ who gave birth to al-Sha'rānī's grandfather Nūr al-Dīn 'Alī,⁴⁰ who, unlike his father, was very learned and was permitted to issue religious ruling (*fatwā*) at the age of twenty. He studied together with Zakariyyā al-Anṣārī⁴¹ at al-Azhar.⁴² He was also a member of the *ṣūfī* circle headed by Ibrāhīm al-Matbūlī⁴³ whose direct disciple was al-Sha'rānī's spiritual mentor 'Alī al-Khawwāṣ.⁴⁴ These links played important roles in al-Sha'rānī's education and spiritual life.⁴⁵

Nūr al-Dīn's son Shihāb al-Dīn Aḥmad⁴⁶ was the father of al-Sha'rānī. He was a *faqīh*,⁴⁷ a *muḥaddith*,⁴⁸ a *naḥwī*⁴⁹ and a *qārī*.⁵⁰ Aḥmad was a student of Ibn Ḥajar al-Asqalānī.⁵¹ He died in 907 *h.* when al-Sha'rānī was then about nine years of age.⁵²

Al-Sha'rānī was born as 'Abd al-Wahhāb b Aḥmad in 899 *h.* at his maternal grandfather's home in the village of Qalqashandā⁵³ in the province of Qalyūbiyyah.⁵⁴ He was brought to his parent's village, in the province of Munūfiyyah after the forty days.⁵⁵ He memorised the *Qur'ān* while he was in his village and his brother 'Abd al-Qādir⁵⁶ helped him memorize the books of *Abū Shujā'ah*⁵⁷ and *al-Ajurūmiyyah*⁵⁸, after the death of his father.⁵⁹

Both his parents died before he was brought to Cairo. Describing his move to Cairo al-Sha'rānī says in his *al-Minan*:⁶⁰

I came to Cairo at the beginning of the year 910 *hijrī*. I was then twelve years of age. I was made to study in the mosque of my master Abū al-'Abbās al-Ghamrī⁶¹. May God have mercy on the *shaykh* and on his children, I stayed amidst them as if I was one of them, eating what they ate and wearing what they wore. I stayed with them till I memorised the basic texts (*mutūn*) of the books of law (*shara'ī*) and the literary techniques from the teachers (*ashyākh*) there.⁶²

Thus al-Sha'rānī spent his time in study, prayer and spiritual exercises, for nearly ten years. During these years he won the hearts and admiration of scholars like Nūr al-Dīn 'Alī al-Shūnī,⁶³ who made him lead the sessions of praise for the Prophet (*maḥyā*)⁶⁴ which the latter had started.⁶⁵ This aroused jealousy among his comrades, particularly among the children of Abū al-'Abbās al-Ghamrī.⁶⁶ Therefore, he moved to the *madrasah*⁶⁷ of Umm Khūnd. Al-Sha'rānī found peace in the new abode where his *maḥyā* sessions were well attended by dignitaries and emirs. By then he had his own *zāwiyah*, built for him by Qādī Muḥyī al-Dīn 'Abd al-Qādir al-Uzbekī,⁶⁸ who feared the confiscation of his extensive lands by the conquering Ottomans. This endowment by al-Uzbekī provided economic security for al-Sha'rānī, his family and for the residents of the *zāwiyah*.⁶⁹

Al-Sha'rānī had four wives. Of them only his fourth wife Umm Ḥasan⁷⁰ was a *sharīfah* or *sayyidah*.⁷¹ He emphasises that a man should not marry a *sharīfah*, unless he is absolutely certain that he can treat her with due respect.⁷² He had many children from his marriages, but only a son and a daughter, by name 'Abd al-Raḥmān⁷³ and Ḥusnā⁷⁴ respectively survived him.⁷⁵

Al-Sha'rānī's education was wide ranging. He studied *fiqh*, *ḥadīth*, *sīrah*, *naḥw*, *kalām* and *taṣawwuf*. He takes special pride in the fact that, in *fiqh*, he studied the books of all four *madhāhib*.⁷⁶ However, it seems that from the books he claims to have studied, there is nothing relating to philosophy, logic or other intellectual sciences. Among the teachers with whom al-Sha'rānī studied, the names of Amīn al-Dīn al-Ghamrī,⁷⁷ Zakariyyā al-Anṣārī and Jalāl al-Dīn al-Suyūṭī⁷⁸ are prominent. Though

his acquaintance with al-Suyūṭī was short lived, - al-Sha'rānī met him a month before his death-, his influence on the young al-Sha'rānī was great indeed. His frequent quoting of al-Suyūṭī in his works bears testimony to this truth. Likewise he had many spiritual masters. Among them mention should be made of Nūr al-Dīn 'Alī al-Marṣafī,⁷⁹ Muḥammad b 'Inān,⁸⁰ Muḥammad al-Shināwī,⁸¹ Afḍal al-Dīn Aḥmad⁸² and, above all, 'Alī al-Khawwāṣ al-Burullusī.⁸³

'Alī al-Khawwāṣ's association contributed immensely in moulding al-Sha'rānī's *ṣūfī* outlook. Describing his master 'Alī al-Khawwāṣ, al-Sha'rānī says "he was an unusual human being (*insān ḡhayr 'ādī*), nay he was a unique type in his time and he had *maqāmāt*⁸⁴ and *karāmāt*⁸⁵ which were not known to any one other than God."⁸⁶ He was an *ummi*⁸⁷ neither did he read nor write, yet he used to speak on the Book, the *sunnah*, the states of the *ṣūfī* community (*qawm*)⁸⁸ and their stations, in a lofty and precious speech. He was a humble man and upheld the idea of service to others.⁸⁹ He used to clean mosques, latrines and carry the garbage and empty the refuse dumps, every Friday, to earn the satisfaction of God.⁹⁰ He used to sell sycamore (*al-jummaiz*), pressed dates (*al-'ajwah*), soap and all that he could find, when he was a novice in the circle of Ibrāhīm al-Matbūlī, in Birkat al-Ḥajj⁹¹ outside Cairo.⁹² Thereafter, al-Matbūlī gave permission to 'Alī al-Khawwāṣ to open an oil shop, which he operated for nearly forty years and he ended his life as a palm-leaf plaiter.⁹³ Al-Sha'rānī says that his speech was not always intelligible and sounded like Hebrew or Syriac.⁹⁴ However, scholars like Nāṣir al-Dīn al-Laqqānī,⁹⁵ Shihāb al-Dīn b al-Subkī,⁹⁶ Shihāb al-Dīn al-Ramālī⁹⁷ and the grand Qāḍī Shihāb al-Dīn al-Futūḥī used to stand subdued before his speech.⁹⁸ Al-Sha'rānī mentions that when he became a disciple of 'Alī al-Khawwāṣ, the

latter ordered him to sell all his books and to give the money in charity. For he decreed that only by getting rid of the acquired knowledge (*al-‘ilm al-muktasab*) could al-Sha‘rānī get access to the heavenly knowledge (*al-‘ilm al-ladunnī*).⁹⁹ Al-Sha‘rānī acted accordingly and then composed his first book, "*al-Anwār al-Qudsīyah fī bayān ādāb al-‘Ubūdīyah* [The Sacred Light in respect of elucidating the manners of Servanthood],"¹⁰⁰ which ‘Alī al-Khawwāṣ approved of. Apart from this book, al-Sha‘rānī wrote two books in which he collected the opinions and *fatāwā* of his master, such as, "*Durar al-Ghawwāṣ fī fatāwā al-Khawwāṣ* [The Pearl Diver’s Pearl in the Rulings of al-Khawwāṣ]"¹⁰¹ and "*al-Jawāhir wa al-Durar* [The Gems and the Pearls]."¹⁰² ‘Alī al-Khawwāṣ died in the year 930 *h*.¹⁰³

Al-Sha‘rānī’s popularity did not go unnoticed. He earned the admiration of the rulers and the wrath and the jealousy of his enemies within the scholarly circle of Cairo. Of all the members of the ruling class, al-Sha‘rānī was very close to Sulṭān Sulaymān,¹⁰⁴ under whose rule he lived for forty-five years.¹⁰⁵ Al-Sha‘rānī felt a strong affinity with the Sulṭān to such an extent that he became ill at the same time as the ruler; at the Sulṭān’s indisposition, al-Sha‘rānī interrupted the *Ramaḍān* fast for ten days, as a sign of solidarity with him.¹⁰⁶ His high standing with the rulers has been described by a writer in these words:

The powerful (emirs) and Arab chieftains used to express their love for him. It reached such a degree that no one would accept a government appointment without first meeting the *shaykh* to hear his opinion. Often the emir, as he passed by his *zāwīyah*, stopped his retinue at the gate and went inside, kissed the *shaykh*’s hand, and returned encouraged by his meeting, relying on his words.¹⁰⁷

This association and familiarity of al-Sha‘rānī with the ruling circle infuriated his enemies who tried many ways to discredit al-Sha‘rānī and

his works. They even attempted to take his life.¹⁰⁸ However, nothing seemed to damage his popularity. Thus he remained an undisputed *ṣūfī*-scholar till his death at the beginning of 973 *h.* at the age of seventy-four, after he had lain paralyzed for twenty-one days. His funeral was attended by all the dignitaries of the state, including 'Alī Pāshā.¹⁰⁹ He was buried by the side of his *shaykh* Nūr al-Dīn 'Alī al-Shūnī.¹¹⁰

Details of al-Sha'rānī's life and works have been written by scholars like al-Malījī and others. Lists of works on his biography and writings are appended to this thesis.¹¹¹

Sūfī - Fuqahā' Controversy:

The controversy between the *ṣūfīs* and the '*ulamā*' is the controversy between the *sharī'ah* and the *ḥaqīqah*. One believes that *Islām* has no need for the *taṣawwuf* while the other believes that without *taṣawwuf* there is no *Islām*. In this respect it is claimed that Aḥmad b Ḥanbal used to say:

One who treads in *taṣawwuf* without learning the *fiqh* has indeed gone astray; while one who has learned the *fiqh* without treading in *taṣawwuf* has indeed become a *zindīq*¹¹²; however one who integrates them has indeed become enlightened.¹¹³

Though al-Sha'rānī was not the first who endeavoured to reconcile these two factions, he nevertheless tried to "enliven this discussion and add to it a fresh dimension."¹¹⁴ He was preceded by scholars like al-Junayd¹¹⁵, Ḥākim al-Tirmidhī,¹¹⁶ al-Qushayrī,¹¹⁷ al-Ghazzālī,¹¹⁸ and others who exerted their efforts in seeking integration between *ḥaqīqah* and the *sharī'ah*. The controversy lies in the question of who is better: a *ṣūfī* or a *faqīh*? To al-Sha'rānī, the *ṣūfīs* are superior to the *fuqahā'*, not only in

religious matters, but also in the spiritual and moral domain. He says that even the founders of the *madhāhib* (*a'immaḥ*) like Aḥmad b Ḥanbal used to consult Ḥārith al-Muḥāsibī,¹¹⁹ a *ṣūfī*, in matters of religious nature.¹²⁰ He believes that the *fuqahā'* were "egocentric, vain, spiteful and greedy, whereas the *ṣūfīs* were selfless and forgiving."¹²¹ To illustrate the differences in the understanding of the above two groups, al-Sha'rānī relates a story that al-Junayd and his friend, the *faqīh* Ibn Surayj¹²² had argued over the religious standing of the *ṣūfīs* and the *fuqahā'*. Al-Junayd threw a stone into a group of *ṣūfīs*, whereupon they exclaimed "Allāh, Allāh, Allāh". When the same experiment was repeated with a group of *fuqahā'*, they shouted *ḥarām*.¹²³ The point of the story lies in a play on the double meaning of the word "*ḥarām*," a legal term denoting "prohibition," and also an exclamation meaning "shame on you" or "how dare you!"¹²⁴

Thus it can be seen that there is an essential interdependence between the *sharī'ah* and *ḥaqīqah*. Al-Qushayrī says that the *sharī'ah* which is not informed by the *ḥaqīqah* is unacceptable just as every *ḥaqīqah* not restricted by the *sharī'ah* is unacceptable.¹²⁵ Continuing his statement al-Qushayrī says:

The *sharī'ah* exists for the regulation of mankind while the *ḥaqīqah* informs (us) of the disposition of God. The *sharī'ah* exists so that you worship Him and the *ḥaqīqah* (exists) so that you contemplate Him. The *sharī'ah* exists for obedience to what He has commanded and the *ḥaqīqah* for witnessing what He has decreed and destined.¹²⁶

Then he says that he heard Abū 'Alī al-Daqqāq¹²⁷ saying, "The (*Qur'ānic*) verse [*iyyāka na'budu*] 'Thee do we serve'" is for preserving the *sharī'ah*, whereas [*iyyāka nasta'in*] 'Thy help we seek' is for the confirmation of the *ḥaqīqah*.¹²⁸ So al-Qushayrī says, "Know that the

sharī'ah is the *ḥaqīqah*, since He ordained it as obligatory and the *ḥaqīqah* is the *sharī'ah* because it is the knowledge of God likewise ordained by Him.¹²⁹ In the same vein al-Hujwīrī¹³⁰ tries to establish the relationship between the *sharī'ah* and *ḥaqīqah*. He says, referring to these two terms:

These are terms used by the *ṣūfīs* to denote soundness of the outward state and maintenance of the inward state. Two parties err in this matter: firstly, the formal theologians who assert that there is no distinction between the *sharī'ah* and the *ḥaqīqah*, since the *sharī'ah* is the *ḥaqīqah* and the *ḥaqīqah* is the *sharī'ah*; secondly some heretics, who hold that it is possible for one of these things to subsist without the other and declared that when the *ḥaqīqah* is revealed, the *sharī'ah* is abolished... The proof that the *sharī'ah* is virtually separate from the *ḥaqīqah* lies in the fact that in faith, belief is separate from profession; and the proof that the *sharī'ah* and the *ḥaqīqah* are not fundamentally separate but are one, lies in the fact that belief without profession is not faith, and conversely profession without belief is not faith; and there is a clear difference between profession and belief. *Ḥaqīqah* then signifies a *ḥaqīqah* which does not admit of abrogation and remains in equal force from the time of Adam to the end of the world, like the knowledge of God and like the religious practice which is made perfect by sincere intention; while *sharī'ah* signifies a *ḥaqīqah* which admits of abrogation and alteration like ordinances and commandments. Therefore, *sharī'ah* is man's act, while *ḥaqīqah* is God's keeping and preservation and protection. As such it follows that *sharī'ah* cannot possibly be maintained without the existence of *ḥaqīqah*. (Likewise) *ḥaqīqah* cannot be maintained without observing *sharī'ah*. Their mutual relationship may be compared to that of body and spirit; when the spirit leaves the body the living body becomes a corpse and the spirit vanishes like wind, for their value depends on their connection with one another. Similarly, the *sharī'ah* without the *ḥaqīqah* is ostentation, while the *ḥaqīqah* without the *sharī'ah* is hypocrisy... Hence the *sharī'ah* is one of the acts acquired by man, but the *ḥaqīqah* is one of the gifts bestowed by God.¹³¹

As such, the one cannot be rejected in favour of the other; that is, if anyone were to abandon the *sharī'ah* in favour of a false belief that he has attained spiritual perfection, he stands accused of heresy. Likewise, if he were to reject the *ḥaqīqah* by accepting the *sharī'ah* alone, he has committed infidelity.

Even though many scholars have attempted in their times to resolve and reconcile the so-called conflict between these two essential

components of *Islām*, yet the dichotomy continued to stress itself and the gap between them kept widening. The main reason could have been the incompetence and ignorance of both groups. Al-Sha'rānī says, "It is ignorance which kindles controversy."¹³² In his *Ādāb al-'Ubūdiyyah*,¹³³ al-Sha'rānī says:

Know that the *fuqarā'*¹³⁴ are firm in (acting according to) the principles of the *sharī'ah*. However, only the incompetent ones among the *fuqahā'* reject that from the incompetent among the *fuqarā'*. As for the perfect ones in both groups, they do not have amidst them any rejection. For they are one in respect of the Path.¹³⁵

While in his *al-Minan*, al-Sha'rānī reiterates the same idea, but with more details. He says:

Know, O, my brother, that most of what occurs between the *fuqahā'* and the *ṣūfīs* is due to the incompetence (*qāṣir*) of both of them. If not the perfect among the *fuqahā'* submit to the *'ārifs*¹³⁶, and the *'ārifs* (too) submit to the *fuqahā'*. This is because the *sharī'ah* came on two sides: *takhfīf* and *tashdīd*. And for each of these sides there are people who act according to it. Thus whoever is strong, is addressed with *tashdīd* and acts according to the *'azā'im*. (Likewise) whoever is weak, (he) is addressed with *takhfīf* and acts according to the *rukhsah*. It is just like Moses...who was guided by God, so was al-Khiḍr¹³⁷...It was due to this that Moses submitted to al-Khiḍr in the end when he came to know that for the *sharī'ah* there are two sides: a side which was particular to the common people and a side which was particular to the *'ārifs*. As such there is no difference between them in respect of substance.¹³⁸

This ignorance is not attributed to one particular group alone. For both these groups stand equally blamed for that. Moreover, the socio-economic situation and standing of these two groups have contributed enormously to their ensuing conflicts. Egypt at the time of the Ottoman conquest had many *madhāhib* and *ṣūfī tarīqahs*.¹³⁹ There was rivalry between these groups to win over the rulers' admiration and favours. Each tried to curry favour with the rulers. The *fuqahā'* rated themselves above the *ṣūfīs*, while the *ṣūfīs* denounced the *fuqahā'* as those who are concerned with the exoteric teachings of the *Qur'ān* alone. On the other

hand, they were also masters of its esoteric teachings. This controversy and competition did not interest the Ottomans. In fact after their conquest, the socio-economic situation of the Egyptian '*ulamā*'¹⁴⁰ was much affected. They were marginalised by the Ottomans. Many of their favours, privileges and activities were taken away from them. Their economic well-being was made difficult. They were removed from official posts and replaced by Ottoman '*ulamā*'. This does not mean that the '*ulamā*' in general were oppressed by the Ottomans. It just happened that the Egyptian '*ulamā*' did not gain the confidence and admiration of the Turks. On the other hand, the *ṣūfīs* were highly respected by both the Mamlūks and the Ottomans. Perhaps this was due to the nature of both these groups. The *ṣūfīs* were preoccupied more with the thought of the Divine than worldly matters, as opposed to the '*ulamā*' who, by virtue of being interpreters of the *shara'* and as the inheritors of the *shāri'*, exercised more authority in implementing the *sharī'ah*. This might have been construed by the Turks as a challenge to their authority.¹⁴¹ Thus, the Ottomans might have felt that the '*ulamā*'-influence could be undermining to their rule. Moreover the '*ulamā*' themselves could be condemned. For they were fond of engaging in hair-splitting arguments over trivial issues, using language understandable only to themselves. In contrast, the *ṣūfīs* used "precise down-to-earth language (when not writing about theosophy and mysticism!)...(They) wrote for simple people who were not versed either in poetry and *adab*,¹⁴² or in the theological or judicial sciences. They opposed the tendency to overestimate language and poetry, a fact which shows in their writings, both implicitly and explicitly."¹⁴³ Further, *ṣūfīs* "cared about the spiritual and religious needs of simple Muslims and paid special attention

to the instruction of women."¹⁴⁴ When compared with the usual *madrasah*-trained Muslim intellectual with his legalist leanings, the *ṣūfī* writers, says Winter, "represented a different type of cultural attitude, not necessarily a lower cultural level."¹⁴⁵ This was the reason why few theologians went so far as to attack *ṣūfīsm* itself publicly. What the outspoken polemicists like Ibn Taymiyyah¹⁴⁶ and his like opposed was "the superstitions and deviations from the *sunnah* and not the true *ṣūfīsm*."¹⁴⁷ Al-Sha'rānī's works reflects this animosity between these two groups. He maintains that an '*ālim*'¹⁴⁸ with no knowledge of *ṣūfīsm* has missed an important element of religion.¹⁴⁹ While quoting Zakariyyā, al-Sha'rānī says:

A *faqīh* without *ṣūfīsm* is like a slice of dry bread without anything added to enrich it.¹⁵⁰

He says that one should not argue with the *fuqahā'*, since the latter could not understand *ṣūfīsm*; they should not even be shown *ṣūfī* writings. One should avoid arguments with them, because, "an argument could lead to further troubles and curses against the *ṣūfīs*."¹⁵¹ Al-Sha'rānī refuses to acknowledge the *fuqahā'* as '*ulamā'*'.¹⁵² In interpreting the *ḥadīth*, "the '*ulamā'*' are the heirs of the prophets,"¹⁵³ al-Sha'rānī says, "only those who transmit the prophets' teachings are the heirs of the prophets."¹⁵⁴ As such, only the *muḥaddiths* could be regarded as their heirs, and they will be resurrected with the messengers, however the *fuqahā'* will be "resurrected with the common people."¹⁵⁵ This is because, the *muḥaddiths* were the bearers (*naqalah*) of the revelation and they were the inheritors of the prophets in respect of communication (*tablīgh*), on the contrary, the *fuqahā'* had no such status.¹⁵⁶ The *akhlāq* (manners) of the *fuqahā'* might have contributed to al-Sha'rānī's dislike of them. For

he says that they occupied several posts simultaneously and accepted their salaries without fulfilling their duties.¹⁵⁷

Al-Sha'rānī's most serious charges against the *fuqahā'* were concerned with their attitude towards the common people.¹⁵⁸ While attacking the rural dervishes for exploiting the innocent farmers and corrupting their women and youth morally, al-Sha'rānī accuses the *fuqahā'* of not doing their job in teaching the farmers their religion.¹⁵⁹ He did not hesitate to condemn those among the *ṣūfī* orders who engaged in such exploitations and deviations. He particularly singled out the *khalwatiyyah*¹⁶⁰ order who were known for such misbehaviour.

Despite this criticism of the *fuqahā'* and his insistence that the *ṣūfīs* were superior, he, nevertheless had high regard for the '*ulamā'*'. He even claims "there was no quarrel or contradiction between a perfect *ṣūfī* and a perfect *faqīh*; the disagreement was between those who were not qualified in both groups."¹⁶¹

Conflicts within the *madhāhib*:

Cairo, on the eve of Ottoman conquest, had '*ulamā'*' from all the four *madhāhib*. Of the four *madhāhib*, the *madhhab* of al-Shāfi'ī¹⁶² held the central position in the social, scholarly and professional life of the *fuqahā'* of Cairo. In fact, most of the men of distinction in the Egyptian society were Shāfi'ites. The adherence to the *madhhab* of al-Shāfi'ī was made a prerequisite for appointments to positions like teachers at *madāris*¹⁶³ and *shaykhs*¹⁶⁴ at *khānqāhs*.¹⁶⁵ Thus, to quote Winter, "Shāfi'ism was the essence, the moving spirit of Egyptian scholarship."¹⁶⁶

The Shāfi'ite dominance in the Cairo intellectual scene had come about as a result of the policies of the first Ayyūbid Sultān, Ṣalāḥ al-Dīn Yūsuf b Ayyūb,¹⁶⁷ who himself was a Shāfi'ite.¹⁶⁸ But this was modified in the reign of *al-malik al-ṣāliḥ* Najm al-Dīn Ayyūb,¹⁶⁹ when large numbers of Mamlūk mercenaries were brought to Egypt. The apparent backing of these mercenaries contributed to the reestablishment of the Ḥanafites, who, after a long silence, emerged as a force to be reckoned with. The Ḥanbalites, being few in number, never had been contenders for prominence in Egypt. However, it was the Mālikites who were very much affected by these changes and they felt that they were fast losing ground.¹⁷⁰

Prior to the coming of the Fāṭimids, it had been the Mālikites and the Shāfi'ites who competed with one another for prominence in Egypt. When the Fāṭimids moved to Cairo in 363 *h.* the post of *qāḍī* was occupied by a Mālikite by the name of Abū Ṭāhir al-Dhuhlī¹⁷¹ who had been installed by the Ikhshīdīd ruler Kāfūr,¹⁷² and remained in that position for sixteen years.¹⁷³ The Fāṭimid Caliph al-Mu'izz¹⁷⁴ confirmed al-Dhuhlī in this position, but later had him replaced, in 366 *h.* when the latter's health failed, by an Ismā'ilī propagandist, 'Alī b Nu'mān,¹⁷⁵ and his son, al-Ḥusayn¹⁷⁶ who was installed in 389 *h.* He was the first on whom was conferred the title of *qāḍī al-qūḍāt*.¹⁷⁷ The Chief Judgeship apparently remained in the hands of the Ismā'ilites till the year 525 *h.*, when the Imāmite *wazīr*,¹⁷⁸ Ibn al-Afḍal¹⁷⁹ seized *de facto* rule and instituted a system of multiple Chief Judgeships, appointing four independent judges, "each judging and looking into inheritance matters according to his own school."¹⁸⁰ Thus the Mālikites and the Shāfi'ites were recognised as coequals among the Sunnites of Egypt during his rule. However, the

Chief Judgeships of both groups were subsequently reappropriated by the Shī'ites. This has been confirmed by Ibn Iyās, who says that when Ṣalāḥ al-Dīn took power he removed the entire institution of Judgeship "because they were all Shī'ites."¹⁸¹

It was during the reign of Ṣalāḥ al-Dīn, first as *wazīr* to the last Fāṭimid Caliph, al-ʿĀḍid,¹⁸² then as *sultān*, that the Shāfi'ites were steered to the forefront. When he ousted the Shi'ite judges in 566 *h.*, he consolidated their offices into one and replaced them with a single Chief Judge, a Shāfi'ite by the name of Ṣadr al-Dīn b Darbās.¹⁸³ He made this into an institution, and for almost a century, that is up to the reign of Baybars,¹⁸⁴ the Shāfi'ites enjoyed an absolute uncontested monopoly over the Chief Judgeship of Egypt.¹⁸⁵ This move by Ṣalāḥ al-Dīn had a monumental impact on the socio-political situation in Egypt. For under this new arrangement, the Shāfi'ites were put in a position above the other *madhāhib* so as to preside over the judgements passed down by the judges of other *madhāhib*.¹⁸⁶

Moreover, the Shāfi'ites were given prominence in the distribution of religious endowments (*awqāf*) in the form of *madāris*. Of the twenty seven *madāris* which al-Maqrīzī and Ibn Duqmāq listed in their works, the number of institutions distributed according to the various *madhāhib* is as follows:¹⁸⁷

No. of Institution	<i>madhhab</i>
15	Shāfi'ite
4	Mālikite
4	Ḥanafite

2	Shāfi'ite - Ḥanafite
1	Shāfi'ite - Mālikite
1	the four <i>madhāhib</i> are equally represented

Thus it can be seen that the set-up at that time was highly Shāfi'ite inclined. Not only did the rulers of this period support the Shāfi'ites with positions of prestige and political importance, they even became Shāfi'ites themselves upon their accession to power.¹⁸⁸ To quote Ibn Iyās:

No *sultān* ever sat on the throne of Egypt as a follower of any *madhhab* other than that of al-Shāfi'ī but that he was quickly ousted or killed.¹⁸⁹

For instance, the Mamlūk *sultān* Sayf al-Dīn Qutuz¹⁹⁰ remained a Ḥanafite even after becoming ruler of Egypt. However, he was killed within a month of coming to office by his leading general and successor, Baybars, who became a Shāfi'ite and ruled over Egypt for seventeen years.¹⁹¹ However, during Najm al-Dīn's time, two new elements were added to the political equation of Egypt. Firstly, Najm al-Dīn, in the hope of establishing a new power base, imported Turkish slaves to serve in his army. Secondly, in an attempt to pacify and to gain legitimacy with the Egyptian *fuqahā'* he founded the Ṣālihiyyah College, where all the four *madhāhib* were represented equally. These new initiatives altered the balance of power among the *madhāhib* in Egypt. The Ḥanafites gained a foothold and began to compete with the Mālikites and the Shāfi'ites.¹⁹² Thus, all the *madhāhib* were equally assertive, irrespective of their political standing and strength. Najm al-Dīn's decision to import the Turkish slaves was an attempt to resolve the internal political crisis in Egypt. The details of this crisis have been discussed by Ibn Wāṣil in his

Mufarrij al-Kurūb fī akhbār banī Ayyūb.¹⁹³ This move of replacing the Kurdish soldiery with Turks proved very quickly to have its own liabilities. The Mamlūks were foreign implants, whose unruly behaviour stirred up the antipathy of Egyptian society. However, their presence bolstered the position of the Ḥanafites in Egypt. The Ḥanafites were displeased with the Shāfi'ites' monopoly over religious endowments and estates of orphans. They demanded that these jurisdictions be shared with them.¹⁹⁴ Thus by the end of 8th century, the Ḥanafites were openly recognised as equals to the Shāfi'ites in Egypt. This change of fortune in favour of the Ḥanafites did not please other *madhāhib*, particularly the Mālikites, who felt that they had been side-lined by the Ḥanafites. The situation continued till the appearance of the Ottomans. Even though the Ḥanafites were gaining strength, the influence and prominence of the Shāfi'ites remained unaffected. But the situation changed after the Ottomans' take over of Egypt. As mentioned earlier, the Ottomans changed the religious establishments in favour of the Ḥanafites.¹⁹⁵ Cairo lost its importance, since Istanbul became the epicentre of power. 'Ulamā' were virtually "transported" to Istanbul in the hope of raising its status as the seat of learning as well. In Cairo, the 'ulamā' were vying with each other for eminence and prominence. The Shāfi'ites were not as adversely affected as were the Mālikites. They were somewhat removed from the mainstream of the scholarly and social life in Cairo. They maintained strong scholarly and personal ties with North and West Africa. The West African components of the Mālikites were puritanical and aggressive traditionalists. This caused tensions between the Mālikites and scholars of the other *madhāhib*. They adhered to their own books, particularly to *al-Mudawwanah al-Kubrā*.¹⁹⁶ They were also the

staunchest opponents of the *ṣūfīs*. Dhū al-Nūn al-Miṣrī¹⁹⁷ had been persecuted by a Mālikite jurist, while al-Ghazzālī's books were burnt by the Mālikite *fuqahā'* of Spain.¹⁹⁸ Even Abū al-Ḥasan al-Shādhilī¹⁹⁹ was victimised by the Mālikites. Al-Sha'rānī, however, enjoyed hospitality from the Mālikites. He had many colleagues, supporters and even admirers among them. He says that he showed respect to the Mālikites just because his *imām* al-Shāfi'ī was a student of *imām* Mālik.²⁰⁰ He even states that al-Nawawī,²⁰¹ the famous Shāfi'ite scholar, endured insults from a Mālikite for the same reason.²⁰²

The Ḥanbalites were few in number. They had teachers from other *madhāhib*, since scholars from that *madhhab* were few indeed. The situation at al-Azhar, during al-Sha'rānī's time, was not encouraging. Scholars there were preoccupied with writing commentaries upon commentaries on books written by previous generations. There was a great scarcity of scholars who practised what they preached. Scholars there viewed the *ṣūfīs* with contempt. They even accused al-Sha'rānī of being a *zindīq*.²⁰³ The *ṣūfīs'* attitude towards al-Azhar was somewhat reserved. They considered some of the subjects taught there, such as certain branches of *fiqh*, *farā'id*²⁰⁴ and *naḥw* as worldly; therefore, they were not related to true religion. Explaining his dismay at al-Azhar graduates, Ibrāhīm al-Matbūlī says:

The children of the farmers who study at al-Azhar are like those who learn the art of war for the purpose of engaging in *jihād*, but after learning that art they become highwaymen and think that it is enough. They use their learning as a weapon against their adversaries, forgetting the ideals of asceticism and piety for the sake of which knowledge was given.²⁰⁵

However, for al-Sha'rānī, al-Azhar was "the citadel of *Islām*,"²⁰⁶ the holiness of which was not appreciated by the students who desecrated it by their abusive talk.²⁰⁷

Accusation against the *a'immaḥ*:

The influence of competition and rivalry between the *fuqahā'* and their *madhāhib* caused their students to find fault with the '*ulamā'* of other *madhāhib*, especially the founders. Al-Sha'rānī has devoted a number of sections in his *al-Mīzān*, to defending the *a'immaḥ*, particularly Abū Ḥanīfah. The Ḥanafites were accused of exercising *ra'y*²⁰⁸ in matters of religion. Al-Sha'rānī puts forward a strong yet sympathetic defence in support of the *a'immaḥ*, by quoting extensively scholars who had expressed their views on the *a'immaḥ*. Since this will be discussed later in the text, there is no need for it to be repeated here.

As replies to the above "confusions" in the mind of the people, al-Sha'rānī composed a number of works to bring the matter into right perspective. He wrote three treatises covering the above confusions. They include:

- *al-Mīzān al-Khidriyyah*
- *al-Mīzān*
- *Kashf al-Ghummaḥ 'an jamī' al-Ummaḥ*.

A study of these works will show that al-Sha'rānī uses almost the same introduction in all of them, thereby showing their close relationship. Of these, in the first two works, the order of the sentences is not altered. However, in the third work, sentences are arranged in different order.

This has been indicated in the pages appended to this chapter. In the introduction to *Kashf al-Ghummah*, the author says that groups of workers and simple people came to him to complain, and express their disappointment and confusion. Whenever they performed one of the religious rites or concluded a contract according to one *madhhab*, the *fuqahā'* of another *madhhab* declared them null and void. When al-Sha'rānī advised them to sit with the *fuqahā'*, and listen to the discussions so that they would be able to tell right from wrong, they answered that they had often done so, but only seldom had they heard the *fuqahā'* mentioning a *ḥadīth*. For the *fuqahā'* were concentrating on understanding one another's words. Then they based their *fatāwā* on those arguments, as if they were legal proofs. Moreover the common people were confused as to which *madhhab* they should follow and what were the actual opinions of the *madhhab*. Realizing that such learned discussions would not help the people out of their confusion, al-Sha'rānī suggested that they quit their work and devote themselves to acquiring knowledge. To this the workers replied that they could not afford to do so, since they had to work in order to support their families and pay their oppressive taxes and debts. They added that they were not content to sit in a *madrasah* or a *masjid* and eat the people's "dirt" meaning their alms, as the *fuqahā'* did. If they did so, they would have to give up their trades. They had tried to eat from the *waqf* money and discovered that it lay heavily on their hearts. Therefore, they asked al-Sha'rānī to collect in one book the principles of religion according to the four *madhāhib*.

Thus in his attempt to reconcile these contradictions al-Sha'rānī composed *al-Mizān*. This work is the commentary and enlarged version of *al-Mizān al-Sughrā* or as it is called *al-Mizān al-Khidriyyah*, since it

was the latter who taught him this balance. In the following chapters an attempt has been made to present the discussion of *al-Mizān*.

الحمد لله الذي جعل الشريعة المطهرة نورا ينفذ منه
جميع نوار العلوم والنجاة والنجاة جدوله على أرض
القلوب حتى روي منها قلب القاصي من حيث التقليد
لعلمائها الذين ومن عيان شأ من عباده المخلصين
بالاستدراك ينبوع الشريعة المطهرة والوقوف على
العين التي تنفذ منها قوله الحكيم في كل حين وزمان
فأقر جميع أقوال المجتهدين ومقلديهم حتى حين رأى
انضالها بعين الشريعة من طريق الكشف العيان
فإن الشريعة كالشجرة العظيمة المنتشرة وأقوال
علمائها كالثمار والاعمدة التي عليها جدرانها
من ثمارها ولا ثمرة من غير عصبها ولا يوحى بها
من غير ريب وان كل من خرج من قولها أو عملها

عنفا فانما هو لصوره عن درجة العرفان فان رسول
الله صلى الله عليه وسلم آمن فلما آمنه على شريعته ومحا
من المعصوم ان يؤمن عليها خوفا فالكمال من تحت
عن منافع اقوال العلماء من ابن اخذوها لامن ردها
بطريق الجهل والعدوان ومن شمه هذا المشهد
أقرحق جميع اقوال المعتدلين للائمة مالم يخالفوا
مفوضهم وقواعدهم او يخرجوا اجماعا فان من فعل
ذلك فليس هو مقلد لاحد من الائمة ولما هو مقلد
للسيطان فمرادنا بمقلدي الائمة حيث اطلقناهم
في هذه الميزان من كان كلامه مندرجا تحت اصل من اصولهم
والا فندعوا التقليد زورا وبهتان فانما الاقر
واقرب وبعيد وابعد بالنظر لعقيدة كل انسان
ودائرة الاسلام والائمان تجمعهم كلهم وان تفاوتوا
في التوفيق والخذلان احمده حمد من كرم من نكر
الشريعة المطهرة حتى شيع وروى منه الجسم والجان
وعلم ان شريعة نبيه محمد صلى الله عليه وسلم جات شريعة
واسعة جامعة لغفار اهل الاسلام والائمان والاحسان

وانه لا يخرج فيها ولا يثبت على أحد من المسلمين ومن
شهد ذلك فيها فسموه ساطعاً وبهتاناً فان الله
تعالى يقول وما جعل عليكم في الدين من حرج ومن
شهد في الدين حرجاً فانه يكذب القرآن واشكركم
شكر من علم كالشريعة محمد صلى الله عليه وسلم فوقف
عندما حدث له من الاسرار والنهي ولم يتبدع فيها
شيئاً الا ان شهد له به الدليل والبرهان فان
الشارع ما سكت عن شيئا الا رحمة بنا لا لذهوله
ولانسئان واسلم اليه تسليم من رزقه الله عز وجل
حسن النظر بالائمة ومقتلهم وافي جميع اقولهم
الدليل والبرهان اما من طريق النظر والاستدلال
واما من طريق الكشف والعيان ولا بد للمؤمن
من احد هذين الطريقين ليظابق قوله باللسان
ان ساير ائمة المسلمين على هدى من ربه اعتقادهم
بالجنان وكل من لم يصل الى اعتقاد ذلك من طريق
الكشف والعيان وجب عليه اعتقادهم من طريق
التسليم للائمة والادعان فكما لا يجوز لنا الطعن

فما

فبما جات به الرسل مع اختلاف القرايع والاديان
كذلك لا يجوز لنا الطعن فيما شرعه نوابهم بطريق
الاجتهاد والاستحسان ويوضح المتيقن اخذ ذلك
ان تعلم ان الشريعة المطهرة جات من حيث الامر والنهي
على مرتبتين تخفيف وتشديد لا على مرتبة واحدة
كما ساقى بيانه في الميزان فان جميع المكلفين لا يخرجون
عن قسمين قوى وضعيف في كل عصر واوان من قوى
منهم خوطب بالتشديد والاخذ بالعزيمة ومن
ضعف منهم خوطب بالتخفيف والاخذ بالرخصة
وكل منهم على شريعة من ربه وبيان فلا يومر القوي
بالنزول للرخصة ولا يكلف الضعيف بالصعود
للعزيمة وقد رفع حكم الخلاف في الشريعة بهذا
الميزان فاستخرجوا اجماعاً قلته لك في كل قول ومقابلة
تجد احدهما لا بد ان يكون مخففا والاخر مشدداً
ولكل منهما رجال في حال مباشرة الاعمال ومحال ان
يوجد لنا قولان معاً مخففان او مشددان
وقد يكون في المسئلة الواحدة ثلاثة اقوال واكثر

أو قولاً مفصلاً فالخاتمة في قولنا ما يناسبه
 من أحد القولين الأولين بحسب الامكان وقد
 حال الامام الشافعي رضي الله عنه انهما الخليلين
 أو القولين في من لهما أحدهما وأنه من كمال الانجاء
 وقد أمرنا الله تعالى ان نقيم الدين ولا نتفرق فيه
 حفظاً للدين من هدم الاركان فالحمد لله الذي علينا
 باقامة الدين بمسئنا على ما تضمنته هذه الميزان
 واسم هذا الميزان لا اله الا الله وحده لا شريك له شهادة
 نبوءة صاحبها غرف الجنان واشهاد ان سيدنا
 ومولانا محمداً عبده ورسوله الذي بعثه بالشرعة
 السمحة وجعل اجماع امته ملحقاً في وجوب العمل
 بالسنة والقران المهيمن فصل وسلم عليه وعلى آله
 واحبابه صلاة وسلاماً دائماً وسكان
 الجنان امين امين وبعد فيقول الفقير
 عبد الوهاب ابن احمد الشافعي رضي الله عنه
 لما أمر الله تعالى علياً بالبحر في علم الشريعة اسوة
 امثال من صرت اطالع كتب الشريعة المطهرة في الخلاص

النازل

الناظر والمعال وانسح عند الخلاف جداً
 اطلب من نفسي المطابقة بالجنان واللسان في الاعتقاد
 الجازم ان سائر ائمة المسلمين على هدى من ربهم فلم افقد
 على ذلك نسالت عنه جميع من وجدته من علماء مصر
 وصوفيتها فلم يطلعني احد منهم على وجه جامع وصرت
 كلما اجمع بين قولين او مذهبين في باب يتناقض الامر
 علي في باب آخر فتوجهت الى الله تعالى وسألته
 ان يجعلني على احد عنده علم ذلك من تعالى علي وتفضل
 واجاب سؤالي وجمعني على سيدنا ومولانا في العبادة
 الحضر عليه الصلاة والسلام وذلك في سنة
 احدى وثلاثين وتسماية بسطح جامع الغري حين
 كنت ساكناً فيه فشكوت اليه حال فقالت له
 اريد ان تعلم يا بني الله ميزان اجمع بها بين مذهب
 المجتهدين ومقلداهم واردها كلها الى الشريعة
 فقال عليه الصلاة والسلام اني سمعت وافتح عين
 قلبك فقالت له نعم فقال اعلم يا ولدي ان الشريعة
 المطهرة قد جأت من حيث لا امر والنهي ينهي من نهيين

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الحمد لله الذي جعل الشريعة المطهرة بحرا يتفرع منه جميع بحار العلوم النافعة والخلجان ، وأجرى جداوله على أرض القلوب حتى روى منها قلب القاصي من حيث التقليد لعلمائها والذان ، ومن على من شاء من عباده المختصين بالإشراف على ينبوع الشريعة المطهرة وجميع أحاديثها وآثارها المنتشرة في البلدان ، وأطلعه الله من طريق كشفه على عين الشريعة الأولى التي يتفرع منها كل قول في سائر الأدوار والأزمان ، فأقرّ جميع أقوال المجتهدين ومقلديهم بحق حين رأى اتصالها بعين الشريعة من طريق الكشف والعيان ، وشارك جميع المجتهدين في اغترافهم من عين الشريعة الكبرى وإن تقاصر عنهم في النظر وتأخر عنهم في الأزمان ، فإن الشريعة كالشجرة العظيمة المنتشرة وأقوال علمائها كالفرع والأغصان ، فلا يوجد لنا فرع من غير أصل ولا ثمرة من غير غصن كما لا يوجد أبنية من غير جذران ، وقد أجمع أهل الكشف على أن كل من أخرج قولاً من أقوال علماء الشريعة عنها فأنما ذلك لقصوره عن درجة العرفان ، فإن رسول الله صلى الله عليه وسلم قد آمن علماء أمته على شريعته بقوله «العلماء أمناء الرسل مالم يخالطوا السلطان» ومحال من المعصوم أن يؤمن على شريعته خوآن ، وأجمعوا أيضاً على أنه لا يسمى أحد عالماً إلا إن بحث عن منازع أقوال العلماء وعرف من أين أخذوها من الكتاب والسنة لامن ردها بطريق الجهل والعدوان ، وأن كل من رد قولاً من أقوال علمائها وأخرجه عنها فكأنه ينادى على نفسه بالجهل ويقول ألا تشهدوا أني جاهل بدليل هذا القول من السنة والقرآن ، عكس من قبل أقوالهم ومقلديهم وأقام لهم الدليل والبرهان ، وصاحب هذا المشهد الثاني لا يرد قولاً من أقوال علماء الشريعة إلا ماخالف نصاً أو إجماعاً ولعله لا يجد في كلام أحد منهم في سائر الأزمان ، وغايته أنه لم يطلع على دليل لا أنه يجده مخالفاً لصريح السنة أو القرآن ، ومن نازعنا في ذلك فليأت لنا بقول من أقوالهم خارج عنها ونحن نردّ على صاحبه كما نردّ على من خالف قواعد الشريعة بأوضح دليل وبرهان ، ثم إن وقع ذلك ممن يدعى محبة التقليد للأئمة فليس هو بمقلد لهم في ذلك وإنما هو مقلد لهواه والشیطان ، فإن اعتقادنا في جميع الأئمة أن أحدهم لا يقول قولاً إلا بعد نظره في الدليل والبرهان ، وحيث أطلقنا المقلد في كلامنا فأنما مرادنا به من كان كلامه مندرجاً تحت أصل من أصول إمامه وإلا فدعوا التقليد له زور وبهتان ، وما ثم قول من أقوال علماء الشريعة خارج عن قواعد الشريعة فيما علمناه وإنما أقوالهم كلها بين قريب وأقرب وبعيد وأبعد بالنظر لمقام كل إنسان وشعاع نور الشريعة يشملهم كلهم ويعمهم وإن تفاوتوا بالنظر لمقام الإسلام والإيمان والإحسان ، أحمد حمد من كرع من عين الشريعة المطهرة حتى شبع وروى منها الجسم والجنان وعلم أن شريعة محمد صلى الله عليه وسلم جاءت شريعة واسعة جامعة لمقام الإسلام والإيمان والإحسان وأنها لا حرج

ولا ضيق فيها على أحد من المسلمين ، ومن شهد ذلك فيها فشهوده تنقطع وبهتان ، فإن الله تعالى قال - وما جعل عليكم في الدين من حرج - ومن ادعى الحرج في الدين فقد خالف صريح القرآن . وأشكره شكر من علم كمال شريعة محمد صلى الله عليه وسلم فوقف عند ما حدث له من الأمر والنهي والترغيب والترهيب ولم يزد فيها شيئاً إلا إن شهد له شعاع الدليل والبرهان ، فإن الشارع ماسكت عن أشياء لإرحمة بالأمة لانهول ولا نسيان وأسلم إليه تسليم من رزقه الله تعالى حسن الظن بالأئمة ومقلديهم وأقام لجميع أقوالهم الدليل والبرهان ، إمامن طريق النظر والاستدلال وإمامن طريق التسليم والإيمان وإمامن طريق الكشف والعيان ، ولا بد لكل مسلم من أحد هذه الطرق . يطابق اعتقاده بالجنان قوله باللسان ، إن سائر أئمة المسلمين على هدى من ربهم في كل حين وأوان ، وكل من لم يصل إلى هذا الاعتقاد من طريق الكشف والعيان ، وجب عليه اعتقاد ذلك من طريق التسليم والإيمان ، وكلا لا يجوز لنا الطعن فيما جاءت به الأنبياء مع اختلاف شرائعهم فكذلك لا يجوز لنا الطعن فيما استنبطه الأئمة المجتهدون بطريق الاجتهاد والاستحسان ويوضح لك ذلك أن أعلم يأخى أن الشريعة جاءت من حيث الأمر والنهي على مرتبة أولى وتخفيف وتشديد لاطى مرتبة واحدة كما سيأتى إيضاحه في الميزان ، فإن جميع المكلفين لا يخرجون عن قسمين : قوى وضعيف من حيث إيمانه أو جسمه في كل عصر وزمان ، فمن قوى منهم خوطب بالتشديد والأخذ بالعزائم ومن ضعف منهم خوطب بالتخفيف والأخذ بالرخص . وكل منهما حينئذ على شريعة من ربه وتبيان . فلا يؤمر القوى بالزول إلى الرخصة ولا يكاف الضعيف بالصعود للعزيمة وقد رفع الخلاف في جميع أدلة الشريعة وأقوال علمائها عند كل من عمل بهذه الميزان ، وقول بعضهم إن الخلاف الحقيقي بين طائفتين مثلاً لا يرتفع بالحمل محمول على من لم يعرف قواعد هذا الكتاب لأن الخلاف الذى لا يرتفع من بين أقوال أئمة الشريعة مستحيل عند صاحب هذه الميزان ، فامتحن يأخى ما قلته لك في كل حديث ومقابله أو كل قول ومقابله تجد كل واحد منهما لابد أن يكون مخففاً والآخر مشدداً ولكل منهما رجال في حال مباشرتهم الأعمال ومن المحال أن لا يوجد لنا قولان معاً في حكم واحد مخففان أو مشددان ، وقد يكون في المسئلة الواحدة ثلاثة أقوال أو أكثر أو قول مفصل فالخاذق يرد كل قول إلى ما يناسبه ويقاربه في التخفيف والتشديد حسب الإمكان وقد قال الإمام الشافعى وغيره : إن أعمال الحديثين أو القولين أولى من إلغاء أحدهما وأن ذلك من كمال مقام الإيمان ، وقد أمرنا الله تعالى بأن نقيم الدين ولا نتفرق فيه حفظاً له عن تهتّم الأركان فالحمد لله الذى من علينا بإقامة الدين وعدم إضجاعه حيث ألهمنا العمل بما تضمنته هذه الميزان .

وأشهد أن لا إله إلا الله وحده لا شريك له شهادة تبوّى قائلها غرف الجنان ، وأشهد أن سيدنا ومولانا محمداً عبده ورسوله الذى فضله على كافة خلقه وبعثه بالشريعة السمحاء وجعل لإجماع أمته ملحقاً في وجوب العمل بالسنة والقرآن . اللهم فصل وسلم عليه وعلى سائر الأنبياء والمرسلين وعلى آلهم وصحبهم أجمعين وجميع التابعين لهم بإحسان إلى يوم الدين صلاة وسلاماً دائماً سكان النيران والجنان آمين اللهم آمين

و بعد : فهذه ميزان نفيسة عالية المقدار حاولت فيها ما ينحويه يمكن الجمع بين الأدلة المتفارقة في الظاهر وبين أقوال جميع المجتهدين ومقلديهم من الأولين والآخرين إلى يوم القيامة كذلك ولم أعرف أحداً سبقنى إلى ذلك في سائر الأدوار . وصنفتها بإشارة أكابر أهل العصر من مشايخ الإسلام وأئمة العصر بعد أن عرضتها عليهم قبل إثباتها وذكرت لهم أنى لا أحب أن أثبتها إلا بعد أن

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الحمد لله الذى جعل الشريعة المطهرة بحرا يتفجر منه جميع بحار العلوم والخلاجات ، وأجرى جداوله على أرض القلوب حتى روى منها قلب القاصى والدان ، ومن على من شاء من عباده المختصين بالاشراف على ينبوع الشريعة بجميع أخبارها وآثارها المنتشرة فى البلدان حتى شهدا بعد جمع أحاديثها فى قلبه فجاءت شريعة واسعة جامعة لمراتب الاسلام والايمان والاحسان ، لا حرج فيها ولا ضيق على أحد من المسلمين ومن شهد ذلك فيها فشهد به فشهد به تنقطع وبهتان . فان الله تعالى يقول (وما جعل عليكم فى الدين من حرج) ومن ادعى المخرج فى الدين فقد كذب القرآن . فاذن الشريعة كالشجرة العظيمة المنتشرة وأقوال علمائها كالنفروع والأغصان . وكل من شهد تناقضا فى أخبارها أو خطأ فى أقوال علمائها فانما هو لقصوره عن درجة العرفان . فان الشريعة قد جاءت على مرتبتين تخفيف وتشديد ، ولكل منهما رجال لا على مرتبة واحدة كما سيأتى إيضاحه قريبا فى الميزان . ومن عسر عليه الجمع بين حديثين منها أو قولين من أقوال علمائها فليجعل المائل إلى الاحتياط منهما فى مرتبة الأولوية ، والمائل إلى الرخصة فى مرتبة خلاف الأولى ، يطالع على ما قلناه من أعطى الفرقان . أحمد حمد من كرع من بحر الشريعة حتى شبع وروى منه الجسم والجنان . وأشكره شكر من علم كال شريعة محمد صلى الله عليه وسلم فوقف عندما صرحت به ولم يزد عليها شيئا من طريق الكشف أو الاستحسان ، فان هذين الطريقين ولو رخص فى العمل بما نتج منهما فلا عصمة فيه ولا أمان وأسلم إليه تسليم من رزقه الله عز وجل حسن للنظر بالائتماء ومقلديهم ، «أقام لجميع أقوالهم الدليل والبرهان . فجازاه الله عز وجل بذلك الرضى عنه فى الدنيا والآخرة وبوأه ما شاء من غرف الجنان . وأشهد أن لا إله إلا الله وحده لا شريك له شهادة من علم أن الله تعالى أعلم بمصالحه من نفسه وأنه تعالى ما سكت عن أشياء إلا رحمة بخلقهم لا لذهول ولا نسيان . وأشهد أن محمداً عبده ورسوله وحبيبه وخليفه الذى فضله على كافة خلقه وجعل لإجماع أمته ملحقا فى العمل بالسنة والقرآن ه الملمهم فصل وسلم عليه وعلى جميع لإخوانه من النبيين وعلى آلهم وأصحابهم والتابعين لهم باحسان .

(وبعد) فقد شكى الى مرارا بلسان الحال ولسان المقال جماعات من الفقهاء المتعبدین وأهل الحرف النافعة من المؤمنين ما يجدونه فى نفوسهم من كثرة النعم حين يسمعون العلماء

ENDNOTES TO INTRODUCTION

1 A list of works on *ikhtilāf* is Appended to this thesis. see Appendix on pp. 340-6.

2 It is the plural of the term *madhhab*. It is derived from *dhahaba* which means "he went". Thus the term *madhhab* means "the path of a man's treading," or more simply, a man's opinion. Regarding the rendering of the term *madhhab* into English as sect, rite or school, George Makdisi says: "This term was first translated as 'sect,' then as 'rite' or 'school.' But a Sunni *madhhab* could not be a sect, since the term 'sect' is applied to a dissenting religious body, one that is heretical in the eyes of other members within the same communion. That is not the case with the Sunni *madhhab*s, all of which are regarded equally as orthodox. Nor is the term 'rite' an adequate one, since it applies to a division of the Christian church as determined by liturgy; and, unlike a transfer from one rite to another in Christianity, a transfer requiring certain formalities, the transfer in Islam is made from one *madhhab* to another without any formalities whatsoever. The term 'school,' for lack of a better term, is the most acceptable; it is the one that offers the least difficulty. In using it we must keep in mind what the late Professor Schacht has said about the early schools: that the term 'ancient schools of law' implies neither any definite organization, nor any formal teaching, nor any official status, nor even the existence of a body of law in the Western meaning of the term." [see Makdisi, George, "The Significance of the Sunni Schools of Law in Islamic Religious History," in *IJMES*, 10 (1979), p. 1; Schacht, J., *An Introduction to Islamic Law*, (Oxford, 1964), p. 28]. Hereafter the Arabic term *madhhab* is used.

3 For instance, Ibn Rushd wrote his work *al-Bidāyat al-Mujtahid wa nihāyat al-Muqtaṣid*, with the aim of resolving the differences by explaining the reasons for differences and the preferred opinion.

4 The origin of the term al-Sha'rānī has been discussed by many scholars. Some have claimed that he is al-Sha'rāwī, while some others have conjured that he is al-Shi'rānī. Both these conjectures are not valid. [see Vollers, K., "Sha'rāwī und Sha'rānī", in *ZDMG*, 44 (1890), p. 390].

5 The title is variously given. For instance, it is given as *Kitāb al-Mizān al-Sha'rāniyyah al-Mudkhalah li jamī' aqwāl al-Mujtahidīn wa muqallidihim ilā al-Sharī'ah al-Muḥammadiyyah*, see *Khalifah*, p. 1918; and as *Kitāb al-Mizān fī al-Madhāhib al-Thamāniyah 'ashar*, see Rieu, Charles, *Catalogue of Arabic Books in the British Museum*, (London, 1894), p. 207. Hereafter cited as *CAB*.

6 They include Ḥanafites whose eponym is Abū Ḥanīfah [refer to note 27 on p. 129], Mālikites its founder is Mālik b Anas [refer to note 200 below], Shāfi'ites whose *imām* is Muḥammad b Idrīs al-Shāfi'i [see note 162 below] and the Ḥanbalites their leader is Aḥmad b Ḥanbal [see note 20 below].

7 The word *sunnah* literally means *al-'ādah* (custom). Technically it is a homonym (*mushtarak*) between that which emanated from the Prophet of the word, or action, or tacit approval and that which the Prophet assiduously practises (*wāḥabā*) without any imposition. It is of two kinds: (1) *sunnah mu'akkadah* like call to *ṣalāt* (*al-adhān*) etc.. Its rule is like the *wājib* [see note 211 on p. 91] except that the one who abstained from acting according to it will not be punished. (2) *sunan zawā'id* like the *adhān* of a single person (*al-mutafarriḍ*). see *al-Ta'rīfāt*, p. 128.

8 It is the plural of *sunnah*. see note 7 above.

9 i.e.: one who strives to derive new rules from the the sources of *Islāmīc* Law. [see Hallaq, Wael B., "Was the gate of *ijtihād* closed?," in *IJMES*, 16 (1984), p. 16.

10 *Ibid.*, p. 7; al-Māwardī, Ibn Ḥabīb, *Adab al-Qāḍī*, ed. by M. Sirḥān, (Baghdad, 1971), 1:533; al-Āmidī, 'Alī b Abū 'Alī, *al-Iḥkām fī Uṣūl al-Aḥkām*, (Cairo, 1968), 3:218; *Dāwūd*, 4:6-7.

11 The term *ijtihād* literally means *istifrāgh al-wus' fī taḥṣīl amr min al-umūr mustalzīm li al-kulfah wa al-mashaqqah* [the exertion of one's (utmost) ability in attaining a matter which is deemed necessary owing to difficulty or hardship]. see *Tahānawī*, p. 198. Technically it was applied first for the use of individual reasoning in general and later, in a restricted meaning, for the use of the method of reasoning by analogy. According to the classical doctrine of legal theory, *ijtihād* means

exerting oneself to form an opinion in a case or rule of law. This is done by applying analogy to the *Qur'ān* and the *sunnah*. see *EI*, 3:1026-7.

12 The term *ummah* meaning community or nation. For details see *EI*, 4:1015-6.

13 Cf. Appendix - Jurisprudential Flow on p. 360.

14 This does not mean that a *sunnī* Muslim cannot perform his *ṣalāt* in a *shī'ī* mosque. The purpose in writing as such is to show that there is no difference within the *sunnī* fold. In fact one should not make such distinction in respect of mosque.

15 see *CAB*, p. 207.

16 It is said that he also translated a Mālikite book of law, *Mukhtaṣar al-Khalīl* into French. see Perron, *Balance de la loi musulmane: Ou esprit de la Legislation Islamique et Divergences de ses Quartre Rites Jurisprudentiels par le Cheikh el-Charani*, (Alger, 1898), p. xv.

17 see Perron, *Balance de la loi musulmane par le Cheikh el-Charani*, 14(*Revue Africaine* - Algiers, 1870)81:209-17.

18 This was printed by Pustaka Aman Press Sdn. Bhd., Kelantan, Malaysia.

19 He is Shihāb al-Dīn Aḥmad b 'Abd al-'Azīz al-Futūḥī al-Ḥanbalī, known as Ibn al-Najjār, born in 862 and died around 920 *h.* see *TS*, pp. 80-1. While al-Ghazzī gives his year of death as 940 *h.* see *al-Kawākib*, 2:112-3.

20 He is Aḥmad b Muḥammad b Ḥanbal b Hilāl, born in 164 *h.* in Baghdād and died in 241 *h.* see *TKS*, 1:55-6; *al-Shīrāzī*, p. 101. see also text on p. 365 no. 52.

21 He is Muḥammad Muḥyī al-Dīn Abū al-Anas al-Malījī, an affiliate of Sha'rānian *Ṣūfī* Order and was initiated by Yaḥyā Abū Ṣalāḥ b 'Abd al-Raḥmān b 'Abd al-Wahhāb al-Sha'rānī. see *JKV*, p. 346.

22 *Al-Manāqib*, p. 40.

23 *Umayrah*, 3:449.

24 *Ibid.*

25 It is entitled as, *Raḥmat al-Ummah fī ikhtilāf al-A'immaḥ*, written by a scholar named Abū 'Abd Allāh Muḥammad b 'Abd al-Raḥmān al-Dimishqī.

26 It is capable of being applied to various fields of *Islāmic* studies, for instance the Principles of law are called *uṣūl al-fiqh*, the Principles of *Qur'ānic* commentary are called *uṣūl al-tafsīr*, the Principles of Prophetic tradition (*ḥadīth*) are called *uṣūl al-ḥadīth*, while the Tenets of *Islām* are called *uṣūl al-dīn*. Here it is referred to *uṣūl al-fiqh*.

27 He was the cousin and a son-in-law of the Prophet and became the fourth Orthodox Caliph of *Islām*. He was assassinated at Kūfa in 40 *h.* see *TKS*, 1:15-7; *EI*, 1:283-5. see text on p. 361 no. 1.

28 He is Abū al-Qāsim Muḥammad b 'Alī b Abū Ṭālib. He is known by his mother al-Ḥanafiyyah Khawlah bt Ja'far b Qays, who was taken as a captive from Yamāmah, so as to distinguish him from 'Alī's sons from Fāṭimah, the daughter of the Prophet. see *Wafayāt*, 4:169-73.

29 It is said that he married her only after the death of Fāṭimah.

30 This expression refers to the descendants of 'Alī (see note 27 above). However, this term should not be confused with the 'Alawite sect, who believe in the Godship of 'Alī. They are found in Syria and in the South-Eastern part of Turkey.

31 This is situated in the North-Eastern part of Algeria and near to its border with Tunisia. It is called Tlemcen.

32 Perhaps it is a family name. It is named after Sulṭān al-Zughlī. see note 33 below.

33 He is the son of Sulṭān Abū 'Abd Allāh Aḥmad al-Zughlī who was the ruler of Tilmisān (Tlemcen) and its dependencies. Information on al-Sha'rānī's royal ancestors are scarce indeed. It is said that Mūsā died in Egypt in 707 *h.* see *al-Manāqib*, pp. 5-7.

34 Shu'ayb b Ḥusayn Abū Madyan of Bugia was born in Cantillana near Seville and studied in Fez. He was initiated by 'Abd al-Qādir al-Jilānī (details follow) in Makkah. He died in 594 *h.* and his tomb is in Tlemcen. see *EI*, 1:98; Boase, Roger and Farid Sahnoun, "Excerpts from the Epistle on the Spirit of Holiness (*Risālah Rūḥ al-Quds*), in Hirtenstein, S., and M. Tiernan (ed.), *Muhyiddin Ibn 'Arabi: A Commemorative Volume*, (Dorset, 1993), p. 68n28, hereafter cited as *MACV*. It is stated that he was the spiritual mentor of 'Abd al-Salām b Mashīsh (d. 625 *h.*) whose disciple was Abū al-

Hasan al-Shādhilī [details follows below], the founder and the eponym of the Shādhilī Spiritual Order. see also *Winter*, p. 89. It is also stated that Ibn 'Arabī was a disciple of Abū Madyan. *Ibid.*, p. 166. However this has been denied. For it is said that he "never actually met him." In this respect, one may perceive a parallel between their relationship and that of the Prophet Muhammad and Uways al-Qarnī. see *MACV*, *op. cit.*, p. 68n28; Addas, Claude, "Abu Madyan and Ibn 'Arabī", in *MACV*, *op. cit.*, pp. 163-80.

35 *Al-Manāqib*, p. 6; *Winter*, p. 42; Surūr, Ṭāha 'Abd al-Bāqī, *al-Taṣawwuf al-Islāmī wa al-Imām al-Sha'rānī*, (Cairo, 1955), p. 18. Hereafter cited as *Surūr*.

36 He was an illiterate and said to have passed away in 828 h. see *al-Manāqib*, pp. 8-9.

37 For details see al-Qalqashandī, Abū al-'Abbās Aḥmad b 'Alī, *Ṣubḥ al-A'shā fī ṣinā'at al-Inshā*, (Cairo, n.d.), 3:405. Hereafter cited as *al-Qalqashandī*.

38 The term *zāwiyah* refers to the place to where a *ṣūfī* retires for meditation and educating disciples. This is usually smaller than a mosque. This word is used interchangeably with *ribāṭ* and *khānqahs* see *EI*, 4:1220; see also Little, Donald P., "The Nature of *Khānqāhs*, *Ribāṭ*, and *Zāwiyas* Under the Mamlūks," in *Islamic Studies Presented to Charles J. Adams*, ed. by Wael B. Hallaq and Donald P. Little, (Leiden, 1991), pp. 91-105.

39 That is one whose lineage went back to a member of those who helped the Prophet in Madinah. It is said that al-Sha'rānī was an *Anṣār*. see *Winter*, p. 43.

40 For his details see *al-Manāqib*, pp. 9-26; *TKS*, 2:99-104.

41 He is Zakariyyā b Muḥammad b Aḥmad b Zakariyyā al-Anṣārī, born 826 h. and died in 926 h. see *TS*, pp. 37-44; al-Shawkānī, Muḥammad b 'Alī, *al-Badr al-Ṭālī 'bi maḥāsini man Ba'da al-Qarn al-Sābi'*, (Cairo, 1384 h.), 1:252-3. Hereafter cited as *Badr*. see also text on p. 372 no. 146.

42 *Winter*, p. 43.

43 He died in 880 h. at Ashdūd, in Palestine while visiting the tomb of King Solomon. It is said that he did not have any *shaykh* except the Prophet. see *Ibid.*, p. 96; *TSK*, 2:83-7; Ibn Iyās, *Badā'i' al-Zuhūr fī waqā'i' al-Duhūr*, ed. by Muḥammad Muṣṭafā, (Cairo, 1982), 3:88. Hereafter cited as *Badā'i'*. However, according to al-Sakhāwī, Matbūlī had a *shaykh* named Yūsuf al-Burullūsī al-Ahmadī. see *Winter*, p. 95.

44 *Ibid.*, p. 44.

45 *Ibid.*

46 For his details see *al-Manāqib*, pp. 27-9.

47 i.e.: an expert in Law.

48 i.e.: an expert in Prophetic Tradition (*ḥadīth*).

49 i.e.: an expert in Arabic Grammar.

50 i.e.: an expert in reciting the *Qur'ān*.

51 He is Shihāb al-Dīn Abū al-Faḍl Aḥmad b 'Alī b Muḥammad b Muḥammad b 'Alī b Aḥmad al-Asqalānī, born in 773 h. in Cairo and died there in 842 h. see *Badr*, *op. cit.*, 1:87-90. see also text on p. 372 no. 143.

52 *Winter*, p. 45; *al-Manāqib*, p. 29.

53 It is situated about three *farsakh* from Cairo. For its description see *al-Qalqashandī*, *op. cit.*, 3:399.

54 It is situated about one and a half *farsakh* north of Cairo. see *Ibid.*

55 This custom is widely practised in the Muslim World. Normally an expectant mother is sent to her maternal home for delivery, especially her first born child.

56 For his details see *al-Manāqib*, pp. 30-7.

57 It is a basic book in Shāfi'ī law.

58 It is a basic text in Arabic Grammar.

59 *Al-Manāqib*, p. 41.

60 His autobiography. The full title is *Laṭā'if al-Minan wa al-Akhlāq fī wujūb al-Taḥadduth bi ni'mat Allāh 'alā al-Itlāq*, or simply called as *al-Minan al-Kubrā* or even as *al-Minan*.

61 He is the son of the founder of the mosque, Muḥammad b 'Umar al-Ghamrī, a *ṣūfī-shaykh* who has been active in Cairo and its suburbs, died in 905 *h.* see *TKS*, 2:110-1.

62 Maḥmūd, Dr. 'Abd al-Ḥalīm, *Laṭā'if al-Minan li 'arīf bi Allāh 'Abd al-Wahhāb al-Sha'rānī*, (Cairo, n.d.). Hereafter cited as *Laṭā'if*.

63 For his biographical details see *TKS*, 2:171-3.

64 Describing this session Winter says, "It is a special prayer in honour of the Prophet. This Prayer session...began after the evening service on Friday nights. [It is called as such, because] the participants spent (*yuhyū*) the entire nights in this prayer." see *Ibid.*, p. 47. Cf. Ḥusayn, Dr. 'Alī Ṣāfī, *al-Adab al-Ṣūfī fī Miṣr fī al-Qarn al-Sābi' al-Hijrī*, (Cairo, 1963), pp. 216-8.

65 *Winter*, p. 47.

66 *Ibid.*

67 i.e.: the religious seminary.

68 He was a relative of Sharaf al-Dīn b al-Kharazī al-Quṭbī, the head of the state council at the time of the Mamlūks and the Ottomans, about whom Ibn Iyās says that he was a *qādī* of coptic origin. see *Badā'i'*, *op.cit.*, 4:331.

69 *Winter*, 48; Mubārak, 'Alī Bāshā, *al-Khiṭaṭ al-Tawfīqiyyah al-Jadīdah li Miṣr al-Qāhirah wa mudunuhā wa bilāduhā al-Qadīmah wa al-Shahīrah*, (Cairo, 1887-9), 14:110. Hereafter cited as *Bāshā*.

70 She was the fourth wife of al-Sha'rānī. She was the daughter of Sīdī Abū al-Sa'ūd. She was the *sayyidah*. see *Winter*, p. 52.

71 i.e.: both these terms denote that such person is a descendant of the Prophet. see *EI*, 7:324. This is still in use in many parts of the Muslim World. This title is prefixed to a person's name such as Syed Jamāl al-Dīn al-Afghānī. Occasionally in place of Syed they use words like Patcha Sahib [in Afghanistan] and Tanggal [in Tamil Nadu] to denote a person's genealogical affinity with the Prophet.

72 *Winter*, p. 52.

73 For his details see *al-Manāqib*, pp. 163-70.

74 *Winter*, p. 52. Unfortunately no information is available on her.

75 *Ibid.*

76 *Ibid.*, 1:53.

77 He was the *imām* of *Jāmi' al-Ghamrī*, died in 929 *h.* see *TS*, 59-61. see also text on p. 372 note 150.

78 He is 'Abd al-Raḥmān b Abū Bakr b Muḥammad b Abū Bakr b 'Umar b Khalīl b Naṣr b al-Khudar b al-Humām al-Jalīl al-Suyūṭī, born in 849 *h.* and died in 911 *h.* see *Badr*, *op.cit.*, 1:328-35; *TS*, pp. 17-36. Also see Sartain, E.M., *Jalāl al-Dīn al-Suyūṭī* [being a two volume work on the autobiography of al-Suyūṭī entitled, *al-Taḥadduth bi ni'mat Allāh*], (Cambridge, 1975), 1:19-133. see also text on p. 336.

79 He studied under Zakariyyā al-Anṣārī [see note 41 above]. He died around 930 *h.* see *TKS*, 2:127-9.

80 He died in 905 *h.* *Ibid.*, 2:117-22.

81 He died in 932 *h.* *Ibid.*, 2:132-4.

82 He is not only al-Sha'rānī's *shaykh* but also his close friend. see *Winter*, p. 58.

83 For his biography see, *al-Kawākib*, 2:220-1; *TKS*, 150-69.

84 It is the plural of the term *maqām* (spiritual stations), which in the usage of the *ṣūfīs* means to perform correct etiquettes [*istifā' ḥuqūq al-marāsīm*]. For if the etiquettes pertaining to the stations are not performed correctly, then it is not valid for him to ascend to that which is above it, just as one who has not ascertained contentment so that he took possession (of himself) then he will not be

able to have *tawakkul* (i.e. to perform an action while having trust in God)...see al-Qāshānī, Kamāl al-Dīn 'Abd al-Razzāq, *Iṣṭilāḥāt al-Ṣūfiyyah*, ed. by Dr. Muḥammad Kamāl Ibrāhīm Ja'far, (Cairo, 1981), pp. 87-8. Further it is said that *tawbah* is the root of all stations and is the first of the *maqāmāt*. see al-Suhrawardī, Shihāb al-Dīn Abū Ḥafṣ 'Umar b Muḥammad b 'Abd Allāh b Muḥammad, *Kitāb 'awārif al-Ma'ārif*, (Cairo, 1939), p. 330. While al-Hujwīrī says, "'Station' (*maqām*) denotes anyone's 'standing' in the way of God, and his fulfilment of the obligations appertaining to that 'station' and his keeping it until he comprehends its perfection so far as lies in a man's power. It is not permissible that he quits his 'station' without fulfilling the obligation thereof. Thus, the first 'station' is repentance (*tawbat*), then comes conversion (*inābat*), then renunciation (*zuhd*), then trust in God (*tawakkul*), and so on: it is not permissible that anyone should pretend to conversion without repentance, or to renunciation without conversion, or to trust in God without renunciation." see al-Hujwīrī, 'Alī b 'Uthmān al-Jullābī, *Kashf al-Maḥjūb*, trans. by R.A. Nicholson, (London, 1976), p. 181. Hereafter cited as *Maḥjūb*. Elsewhere he says that *maqām* denotes the perseverance of the seeker in fulfilling his obligations towards the object of his search with strenuous exertion and flawless intention. Everyone who desires God has a station, which in the beginning of his search, is a means whereby he seeks God. Although the seeker derives some benefit from every station through which he passes, he finally rests in one, because a station and the quest thereof involve contrivance and design, not conduct and practice. *Ibid.*, pp. 370-1.

85 It means defined as *ẓuhūr amr khāriq li al-'ādah min qibal shakhṣ ghayr muqārīn li da'wā al-Nubuwwah* [the manifestation of a matter which is miracle emanating from a person who is not associated with any claim of prophethood]. see *al-Ta'rīfāt*, p. 193; also see *Maḥjūb*, *op.cit.*, pp. 218- 35; al-Kalabādī, Abū Bakr Muḥammad, *al-Ta'arruf li madhhab ahl al-Taṣawwuf*, ed. by Dr. 'Abd al-Ḥalīm Maḥmūd and Tāhā 'Abd al-Bāqī Surūr, (Cairo, 1960), pp. 71-9.

86 *Latā'if*, *op.cit.*, p. 25.

87 It is an epithet of the Prophet in the *Qur'ān*, which means unlettered. For details see *EI*, 4:1016.

88 It is a term used to denote *ṣūfī* community. see Dozy, R., *Supplément aux dictionnaires arabes* (Leiden, 1927), 2:421. Hereafter cited as *Dozy*. See also Mackeen, A.M.M., "The Ṣūfī - Qawm Movement," in *MW*, 53(1963):212-25.

89 *Al-Kawākib*, 2:221; *Winter*, p. 57.

90 *Al-Kawākib*, 2:221.

91 It is a village situated towards the east of Cairo where the pilgrims gather before departing to Makkah. see Maḥmūd, Dr. Munī' 'Abd al-Ḥalīm, *al-Akhlāq al-Matbūliyyah li 'Abd al-Wahhāb al-Sha'rānī*, (Cairo, n.d.), 1:81n1.

92 *Al-Kawākib*, 2:221.

93 *Winter*, p. 57.

94 *Ibid.*

95 He is Nāṣir al-Dīn al-Laqqānī al-Mālikī, died in 958 h. see *TS*, p. 84-5.

96 Unable to locate.

97 He is Shihāb al-Dīn Aḥmad al-Ramālī, born in Munūfiyyah province and died in 957 h. He was one of the eminent disciples of Zakariyyā al-Anṣārī. [see note 41 above]. *TS*, p. 67-9; *al-Kawākib*, 2:119-20.

98 *Al-Kawākib*, 2:221.

99 *Winter*, p. 57.

100 *Ibid.*

101 *Ibid.*

102 *Ibid.*

103 *Al-Kawākib*, 2:221.

104 He is the tenth and the greatest of the Ottoman Sultāns, reigned from 1520 to 1566. The Turks call him Qānūnī Sultān Sulaymān and Western authors Soliman the Magnificent. He was born in 900 h. (i.e.: 1495) as the son of Sultān Salīm and 'Ā'isha Sultān. For details see *EI*, 4:522-7.

105 *Winter*, p. 62.

106 *Ibid.*

107 *Bāshā*, 53(1963) 14:111; *Winter*, p. 68.

108 *Surūr*, *op.cit.*, p. 142-3.

109 It is a name and title borne by numerous statesmen and generals of the Ottoman empire. *FEI*, 1:293. Perhaps he is the one whose surname is Semiz (the fat). He was the son of a Dalmation from Brazza who became the governor of Egypt for four years. He succeeded Rustam Pasha as grand wazīr and arranged the treaty of Prague with the Austrian Ambassador, Busbek on June 1, 1562. He died in 1565. see *Ibid.*, p. 294.

110 *Winter*, p. 102. It is said that al-Sha'rānī expressed his wish to be buried at al-Shūnī's side. see al-Sha'rānī, 'Abd al-Wahhāb, *al-Akhlāq al-Matbūliyyah al-Mufāda min al-Ḥaḍrah al-Muhammadiyyah 'alā Sayyidinā Ibrāhīm al-Matbūlī*, MS Pococke 378, Bodleian Library, Oxford, fol. 203b.

111 see Appendix on pp. 309-27.

112 This term is applied on one who is a free thinker or an unbeliever. see Wehr, Hans, *A Dictionary of Written Arabic*, ed. by J. Milton Cowan, 3rd ed., (New York, 1976), p. 383. Hereafter cited as *Wehr*.

113 *Surūr*, *op.cit.*, p. 132.

114 *Winter*, p. 230.

115 He is Abū al-Qāsim al-Junayd b Muḥammad b al-Junayd al-Khazzāz al-Qawārīrī, born in Baghdād in 215 h. and died there in 298 h. see *Shadharāt*, 2:228-30; *Ibn al-Subkī*, 2:28-37. Also see Arberry, A.J. (trans.), *Muslim Saints and Mystics: Episodes from the Tadhkirat al-Auliya' (Memorial of the Saints) by Farid al-Din Attar*, (London, 1966), pp. 199-213. Hereafter cited as *Arberry*. He is quoted as saying, "whoever has not learned the *Qur'ān* by heart and has not formally studied *ḥadīth*, and has not learned law before embarking on *sūfism*, is a man who has no right to lead". see Kader, Dr. 'Alī Ḥassan Abdel, *The Life, Personality and Writings of al-Junayd*, (London, 1962), p. 3. see also text on p. 364 note 47.

116 He is Abū 'Abd Allāh Muḥammad b 'Alī b al-Ḥusayn al-Ḥakīm al-Tirmidhī. see *Arberry*, *op.cit.*, pp. 243-9; Masud, Muḥammad Khalid, "Al-Ḥakīm al-Tirmidhī's *Buduww Sha'n*" in *Islamic Studies*, 4 (Sept. 1965), No. 3, pp. 315-43; al-Geyoushī, M.I., "al-Ḥakīm al-Tirmidhī: His Works and Thought," in *Muslim Quarterly*, 15(1971):159-201; Heer, Nicholas, "Some Biographical and Bibliographical Notes on Ḥakīm al-Tirmidhī," in *The World of Islam: Studies in Honour of Philip K. Hitti*, ed. by James Kritzeck and R. Bayly Winder, (London, 1960), pp. 121-5.

117 He is Abū al-Qāsim 'Abd al-Karīm b Hawāzin b 'Abd al-Malik b Talḥah b Muḥammad, born in 376 h. and died in 465 h. in Nishāpūr. *Tārīkh*, 11:83; *Tabyīn*, p. 271; *Ibn al-Subkī*, 3:243; *Shadhrāt*, 3:319; *Ibar*, 3:259; *Taghribirdī*, 5:91.

118 He is Abū Ḥamid Muḥammad b Muḥammad b Aḥmad al-Ghazzālī, popularly called as Ḥujjat al-Islām Zayn al-Dīn al-Ṭūsī, born in Ṭābirān and died there in 505 h. *Tabyīn*, pp. 291-306; *Ibn al-Subkī*, 4:101.

119 He is Abū 'Abd Allāh al-Ḥārith b Asad al-Baṣrī al-Muḥāsibī, born in 165 h. and died in 243 h. see *Arberry*, *op.cit.*, p. 143-5; Smith, M., *An Early Mystic of Baghdād*, (London, 1935).

120 *Ibid.*

121 *Winter*, p. 230; also see al-Sha'rānī, 'Abd al-Wahhāb, *al-Nafaḥāt al-Qudsiyyah fī bayān qawā'id al-Ṣūfiyyah*, MS. Leipzig 268, fol. 73a; *al-Jawāhir wa al-Durar*, printed on the margin of Aḥmad b Mubārak al-Sijilmāsi's *Kitāb al-Ibriz alladhī talaqqāhu 'Abd al-'Azīz al-Dabbāq*, (Cairo, 1927), pp. 143-4.

122 He is Abū al-'Abbās Aḥmad b 'Umar b Surayj, died in 306 h. at Baghdād at the age of 57. *Tārīkh*, 4:287; *Ibn al-Subkī*, 2:87; *Ibar*, 2:132; *Shadharāt*, 2:247. see also text on p. 366 no. 68.

123 *Latā'if*, *op.cit.*, p. 88; *Winter*, p. 230.

124 *Winter*, p. 230.

125 al-Qushayrī, Abū al-Qāsim, *al-Risālah al-Qushayriyyah*, (Cairo, 1972), 1:261. Hereafter cited as *Qushayrī*. see *JKV*, p. 63.

126 *Ibid.*

127 He is the teacher of al-Qushayrī. see *Wafayāt*, 3:206.

128 *al-Qushayrī*, *op.cit.*, 1:261; *JKV*, p. 63.

129 *Ibid.*

130 He is Abū al-Ḥasan 'Alī b 'Uthmān b 'Alī al-Ghaznawī, an Irānian mystic born at Hujwīr a suburb of Ghazna and died in Lahore in 469 h. see *EIN*, 3:546.

131 *Mahjūb*, *op.cit.*, pp. 383-4.

132 *Surūr*, *op.cit.*, p. 135.

133 It is *al-Anwār al-Qudsiyyah fī bayān ādāb al-'Ubūdiyyah*, printed on the margin of his *al-Ṭabaqāt al-Kubrā*. Hereafter cited as *'Ubūdiyyah*. Muhammad Kamal Hasan of Malaysia has rendered a brief study on this book under the title of *The Sūfī Concept of 'Ubūdiyyah*. see text p. 331 for details.

134 This is the plural of *faqīr* which in Arabic signifies "poor;" but it is used in the sense of being in need of mercy, and poor in the sight of God, rather than in need of worldly assistance... This epithet is added to the name of *ṣūfīs*, because, "their maxim was to renounce the goods of the earth; and to live in entire abnegation of all worldly enjoyments, following thereby the words of the Prophet, *al-faqrū fakhrī*, or "poverty is my pride." see *Hughes*, pp. 115-6.

135 *'Ubūdiyyah*, *op.cit.*, 1:50-1.

136 This term refers to the *ṣūfīs*.

137 Khidr is one of the four prophets whom the Islamic tradition recognises as being "alive" or "immortal". The other three being Idris (Enoch), Ilyas (Elias), and 'Isa (Jesus). [see Schimmel, Annemarie, *Mystical Dimensions of Islam*, (Chapel Hill, 1975), p. 202]. However, Ibn 'Arabi does not include Idris. [see Ibn al-'Arabī, Muḥyī al-Dīn, *al-Futūḥāt al-Makkiyyah*, ed. by Dr. Uthmān Yaḥyā, (Cairo, 1975), 11:268] Hereafter cited as *al-Futūḥāt*. He has been equated with St. George. [see Wilson, Peter L., "The Green Man: The Trickster Figure in Sufism", in *Gnosis Magazine*, Spring 1991, p. 23]. Some have even said that he was the "Eternal Wanderer" [see Schwarzbaum, Haim, *Biblical and Extra-Biblical Legends in Islamic Folk-Literature*, (Waldorf-Hessen: Verlag für Orientkunde, 1982), pp. 17-8], and as Elijah [see Anderson, George K., *The Legend of the Wandering Jew*, (Providence, 1965), p. 409; *EORE*, 7:6935]. The *Qur'ān* does not mention him by name, instead, he has been mentioned alongwith Moses in Chapter 18 (*Sūrah al-Kahf*) verses 60-82, where he is said to have "transgressed" the *sharā'ī* limits by killing an innocent boy and performing other acts which to the knowledge of Moses were against the law. The influence of Khidr in *ṣūfism* is very great indeed. For instance, in the *Uwaisī-ṭarīqah* a *murīd* is "initiated by the mysterious prophet-saint Khidr". [see Schimmel, Annemarie, And *Muhammad is His Messenger: The Veneration of the Prophet in Islamic Piety*, (Chapel Hill, 1985), p. 22; Corbin, Henry, *Creative Imagination in the Sufism of Ibn 'Arabi*, (New York, 1969), pp. 32, 53-4; al-Tha'labī, Abū Ishāq Aḥmad b Muḥammad, *Kitāb Qiṣaṣ al-Anbiyā' al-Mawsūm bi al-'Arā'is al-Hāwī min al-Akḥbār Nafā'is al-Nafā'is*, (Cairo, 1331 h.), pp. 151-60. Hereafter cited as *al-Tha'labī*. While speaking about Khidr, al-Sha'rānī says that he (whom al-Sha'rānī calls as *Sayyidina wa Mawlana* Abū al-'Abbās al-Khidr *'alayhi al-salāt wa al-salām*) will not come to anyone in sleep or awake except as a teacher and not as a student, for he is not in need of anyone to teach him, since God has bestowed upon him knowledge from Him. There were people who have had audience with Khidr. They include 'Umar b 'Abd al-'Azīz, Dhū al-Nūn al-Miṣrī, Abū Yazīd al-Bistāmī, Ibrāhīm b Adham, Muḥyī al-Dīn b 'Arabi, Abū al-Ḥasan al-Shādhilī, 'Alī al-Khawwās, Afḍal al-Dīn and a score of others. [see al-Sha'rānī, 'Abd al-Wahhāb b Aḥmad b 'Alī, *al-Mizān al-Khidriyyah*, ff. 4b-5a]. Also see Irfan Omar's "Khidr in the Islamic Tradition", in *MW*, 83(July-October 1993)3-4:279-91; *al-Tha'labī*, *op.cit.*, pp. 151-60].

138 *Latā'if*, *op.cit.*, p. 68; *Surūr*, *op.cit.*, p. 134.

139 This point is discussed in some details in *Winter*, pp. 88-116.

140 It is the plural form of the word '*ālīm*' (i.e.: one who is learned). However it is more technically used for those who are learned in jurisprudence and law. Thus, it is synonymous with *faqīh*. According to Tustarī, there are three kinds of '*ulamā'*': (1) '*ulamā' al-Rabbānī*' are those who perceive God as Lord, (2) '*ulamā' al-Nūrānī*' are those who perceive God as Light, and (3) '*ulamā' al-Dhātī*' are those who perceive God as Essence. [for further discussion see Bowering, Gerhard, *The Mystical Vision of Existence in Classical Islam: The Qur'ānic Hermeneutics of the Ṣūfī Sahl at-Tustarī* (d. 283-896), (New York, 1980), p. 228]. Hereafter cited as *Tustarī*.

141 Although the *shaykhs* represented a real threat to the central power, there is no evidence to sustain the fact that they had plans to take over the authority of the state. In fact their lack of political ambition allowed them to retain their relative freedom, even after the Ottoman conquest. What *shaykh(s)* did was to use their control over the population to maintain their influence on government officials, a matter which allowed them to proceed with their social activities in their *zāwiya(s)*. see Fernandes, Leonor, "Some Aspects of the *Zāwiya* in Egypt at the eve of the Ottoman Conquest," in *Annales Islamologiques*, 19(1983):16.

142 i.e.: Literatures.

143 *Winter*, p. 27. Even al-Ghazzālī strongly denounces such usage of bombastic language. [see Al-Ghazzālī, Abū Ḥāmid Muḥammad, *Iḥyā' 'ulūm al-Dīn*, (Cairo, 1967), 3:151-2]. Hereafter cited as *Iḥyā'*. While al-Ghazzālī says about one 'Abd al-Qādir b Muḥammad b Ḥabīb that even though the later's odes were extremely popular, the grammarians did not approve them see *al-Kawākib*, 1:245.

144 *Winter*, p. 28.

145 *Ibid.*

146 He is Taqī al-Dīn Abū al-'Abbās Aḥmad b Shihāb al-Dīn 'Abd al-Ḥalīm b Majd al-Dīn 'Abd al-Salām b 'Abd Allāh b Abū al-Qāsim al-Ḥurrānī, born in 661 h. and died in 720 h. in Damascus. see al-Bazzār, Abū Ḥafṣ 'Umar b 'Alī, *al-A'lām al-'Alīyyah fī manāqib Shaykh al-Islām Ibn Taymiyyah*, ed. by Dr. Ṣalāḥ al-Dīn al-Munajjid, (Beirut, 1976). see also note 172 on p. 134.

147 *Winter*, p. 30.

148 i.e.: one who is learned. Its plural is '*ulamā'*'. see note 140 above.

149 *Winter*, p. 230.

150 *Ibid.*; see also *TS*, p. 37; al-Sha'rānī, 'Abd al-Wahhāb, *Lawāqih al-Anwār al-Qudsiyyah fī bayān al-'uhūd al-Muḥammadiyyah*, (Cairo, 1903), p. 67.

151 al-Sha'rānī, 'Abd al-Wahhāb, *Tanbīh al-Mughtarrin*, (Cairo, 1861), p. 118.

152 *Winter*, p. 231; *'Ubūdiyyah*, *op.cit.*, 1:54.

153 *Ibid.*; see also *Iḥyā'*, *op.cit.*, 1:34, where al-Ghazzālī expresses his low opinion of the barren erudition of the *fuqahā'*.

154 *Winter*, p. 231; *'Ubūdiyyah*, *op.cit.*, 1:54.

155 *Ibid.*

156 *'Ubūdiyyah*, *op.cit.*, 154.

157 *Winter*, p. 231.

158 *Ibid.*, 1:232.

159 *Ibid.*

160 The principle of this order was the concept of *khalwah* (seclusion or solitary retreat). It is from this principle the group got its name. The mystical classics of Ibn 'Arabī and Ibn al-Fārīd were part of the esoteric lore studied by them. For instance, Ibn 'Arabī says that if a person wants to gain knowledge of things as they are in themselves, "He should follow the path of the great masters and dedicate himself to retreat and invocation. Then God will give direct awareness of that to his heart." see Chittick, William C., *Ibn al-'Arabī's Metaphysics of Imagination: The Ṣūfī Path of Knowledge*, (Albany, 1989), introduction xiib. They were popular among the Ottomans as the eminent personalities of this order were all of Turkish extraction. Even though al-Sha'rānī and his master 'Alī al-Khawwāṣ condemned them for their concept of *khalwah* and their zeal to know the hidden decree of God, yet al-Sha'rānī had respect for the founders of this order. For details see *Winter*, pp. 105-12; Martin, B.D., "A Short History of the Khalwatī Order of Dervishes," in *Scholars, Saints and Sufis*, ed. by Nikkie R. Keddie, (Berkeley, 1972).

161 *Winter*, p. 234; *Latā'if*, *op. cit.*, p. 47. Al-Ghazzālī believes that a *faqīh* can be a *ṣūfī*. see *Ihyā'*, *op. cit.*, 2:196.

162 He is Abū 'Abd Allāh Muḥammad b Idrīs al-Shāfi'ī. He is related to the Prophet through the latter's ancestor Hāshim b al-Muṭṭalib b 'Abd Manāf. His grandfather Shāfi' met the Prophet. He was born in 150 *h.* at Gāza and died in Egypt in 204 *h.* see *Yāqūt*, 17:281; *Hilyah*, 9:63; *Tārīkh*, 2:56; *TH*, 1:280; *Fihrist*, p. 209; *Dibāj*, p. 327; *Tahdhīb*, 9:25; *Wafayāt*, 4:163-9. see text on p. 364 no. 45.

163 It is the plural of *madrasah*. see note 67 above.

164 This term is used to denote spiritual mentor.

165 *Winter*, pp. 219-20. The term *khānqah* or a *khānaqah* also means a *zāwiyah* [see note 38 above]. Perhaps it is derived from the words *khān-i āqah* which means the residence of the spiritual master. For details see *Ein*.

166 *Winter*, p. 220.

167 He is Abū al-Muẓaffar Yūsuf b Ayyūb b Shādhī, known as al-Malik al-Nāṣir Ṣalāh al-Dīn, of Kurdish origin, born in Tikrīt in 532 *h.* *Wafayāt*, 7:139-218; Ibn Shaddād, *Kitāb sirat Ṣalāh al-Dīn al-Ayyūbī*, (Cairo, 1964).

168 see Aeen, Muhsin Pak, "Egypt and the Question of 'Taqrīb' Amongst the Islamic sects," in *Echo of Islam*, 124(October, 1994):16.

169 He succeeded his brother al-Malik al-Mas'ūd Yūsuf b Muḥammad b Abū Bakr b Ayyūb as the ruler of al-Shām, born in 603 *h.* and died in 648 *h.* see *Wafayāt*, 5:84-6.

170 Explaining the reason for such inter-*madhāhib* competition, Prof. George Makdisi says, "There was rivalry among the various legal systems for greater membership. Greater membership led to greater influence in the community; and this influence led, in turn, to greater financial support from those in power who were interested in controlling the masses". see his "Ash'arī and the Ash'arites in Islamic Religious History," in *Studia Islāmica* 17 (1962): 45.

171 He is Abū Ṭāhir Muḥammad b Aḥmad b 'Abd Allāh b Naṣr b Mujayr b Ṣāliḥ b Usāmah al-Dhuhli, died in 367 *h.* see *Wafayāt*, 5:417.

172 He is Abū al-Misk Kāfūr b 'Abd Allāh al-Ikhshīdī, a slave born in Nūbia in 219 *h.* became a ruler of Egypt and Syria. He died in 357 *h.* see *Wafayāt*, 4:99-105; *FEI*, 4:623-4.

173 see al-Suyūṭī, Jalāl al-Dīn 'Abd al-Raḥmān, *Husn al-Muḥāḍarah fī tārikh Miṣr wa al-Qāhirah*, ed. by Muḥammad Abū al-Faḍl Ibrāhīm, (Cairo, 1967), 2:148. Hereafter cited as *Husn*.

174 He is Abū Tamīm Ma'd b al-Manṣūr b al-Qā'im b al-Mahdī 'Ubayd Allāh known as al-Mu'izz li Dīn Allāh, born in 329 *h.* and died in Cairo in 365 *h.* *Wafayāt*, 5:24-8.

175 He is the son of the famous *qādī* Abū Ḥanīfah Nu'mān, born in Maghrib in 329 *h.* and died in Cairo in 374 *h.* *Wafayāt*, 5:417-9

176 Unable to find details.

177 see Allouche, Adel, "The Establishment of Four Chief Judgeships in Fatimid Egypt", in *Journal of the American Oriental Society*, 105(1985)2:317. Hereafter cited as *Allouche*; also see Escovitz, Joseph H., "The Establishment of the Four Chief Judgeships in the Mamlūk Empire," in *JAOS*, 102 (1982)31:529-31, *The Office of Qādī al-Qūḍāt in Cairo under the Baḥrī Mamlūk*, (Berlin, 1984).

178 The term *wazīr* refers to a cabinet minister. see *Wehr*, *op. cit.*, p. 1064.

179 His name is given as Abū 'Alī b Afḍal. *Allouche*, *op. cit.*, p. 318.

180 *Ibid.*, p. 317.

181 *Badā'i'*, *op. cit.*, 1:233.

182 He is Abū Muḥammad 'Abd Allāh b Yūsuf b al-Ḥāfiẓ b Muḥammad b al-Mustanṣir b al-Zāhir b al-Ḥākim b al-'Azīz b al-Mu'izz b al-Manṣūr b al-Qā'im b al-Mahdī, the last Buwayhid ruler in Egypt, born in 546 *h.* and died in 567 *h.* *Wafayāt*, 3:109-12; al-'Abbādī, Dr. Aḥmad Mukhtār, *Qiyām al-Dawlah al-Mamālik al-Ūlā fī Miṣr wa al-Shām*, (Beirut, 1986), pp. 177-9.

183 Unable to locate. Perhaps he is mentioned by Ibn Ḥajar in his *Raf' al-Iṣr 'an qūḍāt Miṣr*, which the researcher is unable to procure.

184 He is al-Malik al-Zāhir Rukn al-Dīn Abū al-Faṭḥ Baybars, the son of al-Malik al-Ṣāliḥ Najm al-Dīn Ayyūb b al-Malik al-Kāmil b al-Malik al-ʿĀdil b Ayyūb, died in 17th June 1227 A.D. see Sadeque, Dr. Sayedah Fāṭimah, *Baybars I of Egypt*, (Pakistan, 1956); see also *Wafayāt*, 4:155.

185 *Badāʾiʾ*, *op. cit.*, 1:233; *Taghribirdī*, 7:134.

186 see Jackson, Sherman A., *In Defense of Two-Tiered Orthodoxy: A Study of Shihāb al-Dīn al-Qarāfī's Kitāb al-Iḥkām fī Tamyīz al-Fatāwā ʿan al-Aḥkām wa Taṣarrufāt al-Qāḍī wa al-Imām*, Unpublished Ph.D. thesis, (University of Pennsylvania, 1991), p. 34. Hereafter cited as *Tamyīz*.

187 *Ibid.*, p. 35. see also Ibn Duq māq, Ibrāhīm b Muḥammad Aydmār al-ʿAlāʾī, *Kitāb al-Intiṣār li Wāṣiṭah ʿAqd al-Amṣār*, ed. by K. Vollers, (Cairo, 1893), pp. 92-9; al-Maqrizī, Taqī al-Dīn Aḥmad b ʿAlī, *al-Mawāʾiẓ wa al-Iʿtibār fī dhikr al-Khiṭaṭ wa al-Āthār*, (Cairo, 1987), 2:362-405. Hereafter cited as *Maqrizī*.

188 *Tamyīz*, *op. cit.*, p. 35.

189 *Ibid.*; *Badāʾiʾ*, *op. cit.*, 1:308.

190 He is al-Malik al-Muzaffar Sayf al-Dīn Qutuz b ʿAbd Allāh al-Muʾizzī. He was assassinated in 658 h. see *Wafayāt*, 4:155.

191 *Tamyīz*, *op. cit.*, pp. 35-6; *Badāʾiʾ*, *op. cit.*, 1:308; *Husn*, *op. cit.*, 2:166.

192 *Tamyīz*, *op. cit.*, p. 36.

193 Ibn Wāsil, Jamāl al-Dīn Muḥammad b Sālim, *Mufarrij al-Kurūb fī akhbār banī Ayyūb*, ed. by Ḥassanayn Muḥammad Rabīʾ and Saʿīd ʿAbd al-Fattāḥ ʿĀshūr, (Cairo, 1977), 4:241-3; *Maqrizī*, *op. cit.*, 2:376.

194 *Tamyīz*, *op. cit.*, p. 38.

195 *Winter*, pp. 225-6.

196 This book was written by Ibn Ṣaḥnūn. see *GALS*, 1:299.

197 He is Abū Fayz Thawbān b Ibrāhīm al-Miṣrī, known as Dhū al-Nūn, born in 180 h. in Egypt and died in Cairo in 246 h. see *Qushayrī*, *op. cit.*, p. 10; *Mahjūb*, *op. cit.*, pp. 100-3. It is said that al-Suyūṭī has a biographical work on Dhū al-Nūn entitled, *al-Sirr al-Maknūn fī manāqib Dhī al-Nūn*. see *Arberry*, *op. cit.*, p. 87.

198 It is said that in Maghrib they burnt his *Ihyāʾ*. see al-Shaʿrānī, ʿAbd al-Wahhāb, *al-Baḥr al-Mawrūd fī al-Mawāthiq wa al-Uhūd*, (Cairo, 1321 h.), p. 32.

199 He is Abū al-Ḥasan ʿAlī b ʿAbd Allāh b ʿAbd al-Jabbār b Tamīm al-Shādhilī, died in 656 h. on his way to ḥajj. see *Shadharāt*, 5:278; *Husn*, *op. cit.*, 1:222.

200 *Latāʾif*, *op. cit.*, p. 265. He is Abū ʿAbd Allāh Mālik b Anas [b Mālik] b Abū ʿĀmir, born in 95 h. and died in Madīnah in 179 h. see *Wafayāt*, 4:135-9; *Taghribirdī*, 2:96-7; *Intiqāʾ*, pp. 8-63; *Tahdhib*, 10:5-9; *Kaḥḥālāh*, 8:168; *El*, 3:223-7; *Sezgin*, *op. cit.*, 1:457-64; *al-Shirāzī*, 53-4.

201 He is Muḥyī al-Dīn Abū Zakariyyā Yahyā b Sharaf al-Nawawī, born in 631 h. and died in 676 h. see al-Daqqar, ʿAbd al-Ghanī, *al-Imām al-Nawawī: Shaykh al-Islām wa al-Muslimīn wa ʿumdat al-Fuqahāʾ wa al-Muḥaddithīn*, (Beirut, 1975). see text on p. 371 no. 131.

202 *Latāʾif*, *op. cit.*, p. 266.

203 *Surūr*, *op. cit.*, p. 39.

204 i.e.: Law of Inheritance.

205 *Winter*, *op. cit.*, p. 229.

206 *Ibid.*

207 *Ibid.*

208 i.e.: personal opinion or discretionary reasoning.

CHAPTER ONE

The Main Discussion of *al-Mīzān*.

One of the most important features of al-Sha'rānī's presentation of the *sharī'ah* is his concern to demonstrate that, in fact, despite all the differences there may exist between the different *madhāhib*, the *sharī'ah* is a unity. The book *al-Mīzān* deals with the nature of *sharī'ah*, its various interpretations, the causes for such variations and how these variations could be reconciled. In this respect, al-Sha'rānī asserts that the *sharī'ah* is "pure,"¹ "spacious"² and "perfect"³ in its origin as it is from God.⁴ Therefore, it is God who gives the ability to His chosen servants to discover the essence of the *sharī'ah* which al-Sha'rānī describes as "the spring⁵ of the *sharī'ah*."⁶ The chosen elite will witness the essential oneness of the *sharī'ah*, irrespective of the variations in its interpretations and applications.

The nature of the *sharī'ah*

Al-Sha'rānī, like most of his predecessors believes that the *sharī'ah* of Muḥammad is the continuation and perfection of the *sharī'ah* which was sent down to all his predecessors. He regards this *sharī'ah* which incorporates earlier legal injunctions (*sharā'i'*) and culminated in the *sharī'ah* of Muḥammad as the "greater *sharī'ah*,"⁷ quoting the *Qur'ān* to support this:

He has established for you of the religion (*dīn*) which He enjoined on Noah and that which We have inspired to you, and that which We enjoined on Abraham, Moses and Jesus; (namely) that you should remain steadfast in the religion, and make no divisions therein.⁸

However, each subsequent *sharī'ah* abrogates part of the preceding one. Thus, according to al-Sha'rānī the *sharī'ah* of the Prophet Muḥammad abrogates certain elements in the *sharī'ah* of Prophet Jesus.⁹ Therefore, he asserts, "It is obligatory to act according to the *sharī'ah* of the Prophet and to abstain from that which was abrogated from the *sharī'ah* of Jesus."¹⁰ Al-Sha'rānī is, nonetheless, reluctant to understand abrogation as the complete removal of the rule abrogated. The fact that he refuses to discuss the possibility of abrogation in the *Qur'ān* itself may indicate that he was of the opinion that the abrogating and abrogated verses could be reconciled. Indeed his attempt to show that the previous *sharā'i'* were not in reality completely abrogated lends support to this view. He maintains, "There can be no abrogation in the *sharī'ah* in reality,"¹¹ though the prophets' new *sharā'i'* "resemble the abrogation of the *sharī'ah* before them."¹² Instead, the laws of all the prophets preceding the Prophet Muḥammad are contained in his *sharī'ah* in the form of the opinions and *ijtihād* of the '*ulamā*'.¹³ Thus, the differences in the opinions of the '*ulamā*' of the *ummah* of the Prophet should not be construed as differences in the *sharī'ah* itself. In this regard al-Sha'rānī quotes his master 'Alī al-Khawwās as saying:

None of the doctrines of the *madhāhib*, whether existing now or having ceased to exist, are anything other than doctrines which have been in the religion of a previous prophet. The reality which God intended by His grace and benevolence was to give this *ummah* a share in the pious deeds arising from the legislation of the prophets in order that they (i.e.: the members of the *ummah*) can obtain part of the reward which was available to those who practised them according to the laws of the prophets. (In this way) He especially favoured this *ummah*, by virtue of the fact that the *sharī'ah* of their prophet encompasses the totality of the rules of the preceding *sharā'i'*.¹⁴

Thus the *sharī'ah* of the Prophet took the essentials of all those preceding *sharā'i'* and purified them from possible distortions of the past. Thus, during his life time the Prophet perfected the religion by perfecting the *sharī'ah*. However, after the demise of the Prophet, many new issues cropped up before the '*ulamā*' who were forced to exercise their intellectual abilities to deduce appropriate substantive laws to suit the needs of the time. In this way differences of opinion arose among them according to the intellectual ability and spiritual station of each *mujtahid*. Even though there were differences in their opinions, nothing is considered to have gone outside the periphery of the *sharī'ah*. Al-Sha'rānī maintains that this is because, according to the Prophet, "The *sharī'ah* has come down in 360 paths, and as such none has trodden in anyone of them except that he has succeeded."¹⁵ For, according to al-Sha'rānī, the *sharī'ah* came with the breadth and width capable of including all the opinions of what he terms "the *imāms* of guidance"¹⁶ from *al-ummah al-Muḥammadiyyah*¹⁷ and that everyone of them, in terms of his doctrine, is perspicacious and on a straight path (*al-ṣirāt al-mustaqīm*)¹⁸. Therefore, he says, "Their differences of opinion are only a mercy to the *ummah* which grew from the administration of the All Knowing and Wise."¹⁹ But it is only a mercy to the *ummah* of the Prophet Muḥammad, and not to those preceding *umam*.²⁰ He then quotes the famous *ḥadīth* in support of this:

He made the difference of my *ummah* as a mercy, whereas it was a trial for those who preceded us.²¹

This is what al-Sha'rānī calls "the special feature of his (i.e.: the Prophet's) *ummah*."²² And that special feature is that, "God has given the *sharī'ah* to the Prophet according to *tashdīd* and *takhfīf* which do not

distress the *ummah*."²³ This doctrine will be analysed in detail later. However, it should be noted that whatever al-Sha'rānī means by *tashdīd* and *takhfīf* are more rigid and less rigid applications of the rules of the *sharī'ah* according to the ability of the individual worshipper. Thus, it is owing to this favour from God that the "Prophet showed mercy to the strong ones in his *ummah* by commanding them to earn the merits and the highest status by performing the '*azā'im*.....', while he showed mercy to the weak ones by not compelling them to do what they are incapable of doing,"²⁴ so that they may "receive rewards by performing the *rukhaṣ*."²⁵ However, al-Sha'rānī claims that the differences in the opinions of the '*ulamā*' will continue "till the appearance of al-Mahdī,"²⁶ when "the continuing to act according to the opinion of one who preceded him from the *madhāhib* will become invalid,"²⁷ and "the rule will be absorbed by the *sharī'ah* of Muḥammad"²⁸ through the "rule of congruity"²⁹ to such an extent that, "Had the Messenger of God been present, he would, certainly, have established it over all his rules,"³⁰ as has been indicated in the *ḥadīth* about al-Mahdī:

Establish my signs (which) will not be mistaken.³¹

He argues that when Jesus descends for the second time,³² the *sharī'ah* of Muḥammad will be revealed to him "through the tongue of Gabriel"³³. In return Jesus will acknowledge "the reality of the *sharī'ah* of Muḥammad"³⁴ such that none from among the prophets nor from the '*ulamā*' who came before and after will go out from the "orbit of the *sharī'ah* of Muḥammad."³⁵

Moreover, whoever had acted according to what all the '*ulamā*' had agreed, "had indeed acted according to the majority of the *sharā'i*' of

the Prophets"³⁶ and perhaps he would get "a reward like all the rewards of the followers of all the Prophets, as a gesture of honouring (*ikrām*) towards the *ummah* of Muḥammad."³⁷

Therefore, it is an obligation to believe and to attribute truthfulness to the "*sharā'i*" of all the messengers despite their variations in respect of legislation."³⁸ Further the *ahl al-kashf*³⁹ maintain that "every opinion of the '*ulamā*' of this *ummah* is in agreement with the *sharī'ah* in respect of the same issue, even though it has not seemed so to some of the followers, just as every opinion of the '*ulamā*' of this *sharī'ah* is in agreement with the *sharī'ah* of a prophet who had preceded."⁴⁰

All their opinions are, thus, connected with the spring of the greater *sharī'ah*. This connection of the opinions of the '*ulamā*' with the spring of the *sharī'ah* is like "the connection of the shadow with the pole"⁴¹ or the "palm to the fingers."⁴² Thus, "no '*ālim*'⁴³ has given in detail that which has been general in the speech of those who preceded him in time, except for the light which is connected to him from the *shārī'* (i.e.: the Prophet)."⁴⁴ Therefore, it is the Messenger of God, who as the master of the *shara'* "gave the '*ulamā*' that subject by which they detailed what was general in respect of his speech,"⁴⁵ just as the favour after him continues in each period which follows it.⁴⁶ As such none could pass over those who are before them in time.⁴⁷ For, by so doing "their attachment to the *shārī'* would become disconnected and they would not have been guided in elucidating the difficult passages nor the details of the general concepts."⁴⁸

Had it not been for the elucidation of the Messenger of God, the *Qur'ān* would have remained in "its general concepts."⁴⁹ Similarly in the

case of the *a'immah* of the *mujtahids*, "had they not detailed that which was general in the *sunnah*, the *sunnah* would, certainly, have been left in its general (concepts)."⁵⁰ The situation would continue to be the same to the present day.⁵¹ Therefore, "had the reality of the *ijmā'*"⁵² not been all-pervading in the universe of the '*ulamā'*', no books would have been commented on, nor would they have been translated from one language to (another) language, nor would the '*ulamā'*' have written glosses on the commentaries."⁵³

Therefore, what is called in the *ḥadīth* the "mistake of the *mujtahid*" should not be taken in the literal sense, simply because there can be no mistake or even error in the *sharī'ah*. For it is God who guides and inspires these *mujtahids* to witness the spring of the *sharī'ah* and thereby enables them to deduce laws suiting the needs of the time and place. Al-Sha'rānī describes the spring of the *sharī'ah*, according to Zakariyyā al-Anṣārī, as "like the ocean and, therefore, from whichever direction you scoop from it, it is one."⁵⁴ But the amount of water scooped from the spring of the *sharī'ah* depends on the physical, intellectual and spiritual abilities and capacities of the *mujtahids* concerned.

Whoever has succeeded in witnessing the spring of the *sharī'ah*, will know that the "*sharī'ah* of Muḥammad came as a broad *sharī'ah* embracing the positions of *islām*, *īmān* and *iḥsān*."⁵⁵ There is in it "no difficulty (*ḥaraj*) nor any inconvenience (*ḍayyiq*) for any Muslims."⁵⁶ On the contrary, "whoever witnessed in it any inconvenience, then his witnessing is obstinacy (*tanattu'*) and is a calumny (*buḥtān*)."⁵⁷ For God has categorically stated that:

He has imposed no difficulties on you in religion.⁵⁸

The *sharī'ah*, according to the author, falls within the following three categories:

a) that which the revelation has brought from the *aḥādīth* and that which went in place of the established principles in respect of the *sharī'ah*.⁵⁹

b) that which God has permitted to his Prophet so that he could set a path according to his opinion. This is in the form of guidance to his *ummah*.⁶⁰ For example, his prohibition of men wearing silk and his saying in the *ḥadīth* prohibiting the cutting of trees in Makkah except the *idhkhir*⁶¹ when his paternal uncle al-'Abbās⁶² said to him: "except the *idhkhir*, O, Messenger of God."⁶³ If not, God would have prohibited the cutting of all plants of the Ḥaram,⁶⁴ and the Prophet would not have excluded the *idhkhir*.⁶⁵ Al-Sha'rānī gives further examples from the sayings of the Prophet. For instance, when the Prophet was asked whether the *ḥajj* was obligatory every year, he said, "No, if I had said yes, then it would have certainly become obligatory."⁶⁶ It is because of this that the Prophet used to prohibit the *ṣaḥābah* from asking questions by saying:

Leave me with what I have left for you all,⁶⁷

fearing that there will be "many revelations of rules arising out of their questions, which they would be unable to carry out."⁶⁸

c) that which the *sharī'* has made as a favour to his *ummah* and as a good gesture (*adab*) towards them.⁶⁹ For, if they perform it they will obtain the favour and if they abstain from it, then there is no objection.⁷⁰ This is like Prophet's prohibition of the work of the cupper,⁷¹ the prohibition on women visiting the grave and so on.⁷²

Regarding the opinions of the 'ulamā' being part of the *sharī'ah*, al-Sha'rānī says that their opinions, too, will not "depart from the two sides of the balance of *takhfīf* and *tashdīd*."⁷³ This is because, "they followed the Messenger of God,"⁷⁴ and as such "what they found of the injunctions and prohibitions (which) the Messenger emphasised (*shaddah*), they (too) emphasised, and what they found from him in which he had shown *takhfīf* (*khaffah*), they (too) made the *takhfīf*,"⁷⁵ He further stresses that, at times all the *a'imma*h of the *mujtahids* used to encourage their disciples to act according to the literal meaning of the Book and the *sunnah*, saying that if their opinions contradicted the literal meaning of the Book and the *sunnah*, then they should act according to the Book and the *sunnah* and should "throw their statement at the wall."⁷⁶ This they said only "as a caution to the *ummah* and as a mark of good manners towards the Messenger of God, so that none of them increase in respect of his *sharī'ah* anything which he did not increase and was not pleased with,"⁷⁷ while fearing that by doing so they might be included among those "who have strayed away from the right path."⁷⁸ Therefore, according to al-Sha'rānī, the limit of the opinions of the *a'imma*h which will not please God and His Messenger is "to depart from the principles of the established *sharī'ah*."⁷⁹ Therefore, all that "which the *sharī'ah* bears witness to as valid and which agrees with its principles is counted as part of the *sharī'ah*, even though the *shāri'* did not openly state anything about it."⁸⁰ For, he argues, "Had they not explained to us that which is general in the *aḥādīth*, the *sharī'ah* would, certainly, have remained in its general (concepts)."⁸¹ This trend of relating the opinion of one period with that which preceded it will, according to al-Sha'rānī, "continue to be current in the speech of the 'ulamā' till the Day of Judgement."⁸² Therefore,

none of their opinions will depart from the *sharī'ah*, since they "built the principles of their *madhāhib* on the reality (*ḥaqīqah*) which is the higher of the two sides of the *sharī'ah* (i.e.: the esoteric and the exoteric aspects of the *sharī'ah*)."⁸³ According to what al-Sha'rānī quotes from Afḍal al-Dīn "the *sharī'ah* never opposes the *ḥaqīqah*."⁸⁴ However, the *ḥaqīqah* differs from the *sharī'ah* owing to the shortcomings on the part of the witness.⁸⁵ For had he (i.e.: the witness) been honest in respect of witnessing, the *ḥaqīqah* would not have lagged behind the *sharī'ah*.⁸⁶ This is because "every *ḥaqīqah* is a *sharī'ah* and vice-versa."⁸⁷ It is due to this relation between the *ḥaqīqah* and the *sharī'ah* that the Messenger of God "has ordered us to determine the conditions of the people on the basis of appearance while prohibiting us from investigating and looking into what is in their hearts, as a mercy to this *ummah*."⁸⁸ The *a'immaḥ* also "used to act according to the *ḥaqīqah*,"⁸⁹ because, they were "‘ulamā' of *ḥaqīqah* and *sharī'ah* together."⁹⁰

The *a'immaḥ* used their ability to spread the *sharā'ī* proofs in their *madhāhib* and on other *madhāhib* according to the rule of the two sides of this balance, so that none after them will stand in need of thinking about the opinions of the other *madhāhib*, since all of them were "people of justice and *kashf*."⁹¹ By this they know that "the matter resides in the knowledge of God according to a number of particular *madhāhib* and not according to one single *madhhab*."⁹² In other words no single *madhhab* could contain all the *takhfifs* or the *tashdīds*. Therefore, every *mujtahid* has left to those who came after him a number of issues which he would know through their being unveiled to him that they as a whole belong to another *madhhab*.⁹³ This was done according to "the intent of God and

not out of affection for the nearness of the *sharī'ah* and the dislike for the *sunnah*. "94

Al-Sha'rānī quotes 'Alī al-Khawwāṣ as saying that it is not valid for the opinion of *a'immah* to have departed from the *sharī'ah*, "through their study of the subject-matter of their opinions from the Book, the *sunnah*, the opinions of the *ṣaḥābah* through valid *kashf* and through the meeting of their spirit with the spirit of the Messenger of God."95 In other words, he is maintaining that there was some kind of spiritual meeting between the Prophet and '*ulamā*' who came after him. Describing this meeting of the spirits of the Messenger of God and the *a'immah*, al-Sha'rānī says that the *a'immah* ask the Prophet regarding everything they understood from the Book and the *sunnah* before they compiled their books by saying: "O, Messenger of God, we had understood such and such from such a verse and we understood such and such from your saying in such a *ḥadīth*, are you pleased with it or not?"96 Upon receiving the indication of approval from the Prophet, they practise according to the requirement of his saying.97 This indicates that the '*ulamā*' in their deduction of rules from the Book and the *sunnah*, according to what they have understood from them, do "consult" the Prophet as to the correct import of the verses and *aḥādīth*. It is a way of validating their opinions. That is to say that the Prophet gave his approval of their interpretation of the texts.

Thus, according to al-Sha'rānī, the rules of the *sharī'ah* will be completed only when one joins together "all the *aḥādīth* and *madhāhib* with one another until they become as if they were one *madhhab* with two sides."98 Therefore, all those who broaden their observation and have



extensive knowledge of the *sharī'ah*, through examining the opinions of its 'ulamā' at all the levels (*adwār*), will find that the *sharī'ah* was woven from the *āyāt*,⁹⁹ *akhbār*¹⁰⁰ and the *āthār*,¹⁰¹ and that both its thread (*sadā*) and weft (*laḥmah*) were from them.¹⁰² Therefore, whoever excludes a *ḥadīth* or an *athar* or an opinion of the 'ulamā', is *qāṣir* (limited) and *jāhil* (ignorant).¹⁰³ Moreover, his knowledge is defective in respect of that.¹⁰⁴ Al-Sha'rānī likens the knowledge of such an ignorant person to a piece of cloth which is short of one or more threads in its length or weft which it should have.¹⁰⁵ Only by joining together and reconciling the contradictory *aḥādīth* and opinions could one claim that he has fully comprehended the intent of the *shārī'* (i.e.: the Prophet) and his *sharī'ah*.¹⁰⁶

The causes for the variations in the *sharī'ah*

According to al-Sha'rānī, the *sharī'ah* varied according to the physical and intellectual abilities of the *mukallaḥs* and according to the time and place of the application of the *sharī'ah*. When the *mukallaḥs* are physically sound they are given the task of acting according to that which befits their physical constitutions. Even the reward and punishment are determined according to these conditions.¹⁰⁷ But, the causes for such differences are not of the making of man. For, every believing servant knows that God is the Knower of all things and is Wise in respect of all things from the *azal*¹⁰⁸ to the *abad*.¹⁰⁹ Thus it is perfectly in the knowledge of God when He created this universe strengthening its conditions and distinguishing its various states thereby setting its perfection in order, He made it appear with unlimited differences and variations in respect of their constitutions, compositions, conditions and the manners of acting according to the rule of His foreknowledge and

according to what His Will has caused to happen.¹¹⁰ Thus the entire creation in the universe came into existence according to these factors and limitations. Therefore, it was due to God's innovative wisdom, great favours and all encompassing mercy that He divided His servants into two categories: *shaqī*¹¹¹ and *sa'īd*,¹¹² and made them depend on the promise of reward and the threat of punishment, which He had created for them, in order to test their allegiance to His cause.¹¹³ Again it was owing to His justice and the vastness of His favour that He had made for each of the two, in this world, what is suitable for his state in his present life and in the hereafter.¹¹⁴ Thus God perfected His creations and thereby the order of the existing things was secured according to the two aspects of Time and Place.¹¹⁵ And of all the creation man was considered as the best, as has been indicated in the *Qur'ān*:

We have, indeed, created man in the best of moulds.¹¹⁶

However, even after creating these perfections in creation, and more particularly in man, God did not make every beneficial thing absolutely beneficial, nor every harmful thing absolutely harmful.¹¹⁷ Instead, He made a balance between these two extremities by making a thing benefit one while harming the other and vice-versa,¹¹⁸ thereby making the entire creation revolve around His dictates and will. Therefore, no one shall exceed the limits and order set for him by God, as has been stated in the *ḥadīth*:

Everyone is capable of acquiring whatever he has been created for.¹¹⁹

Al-Sha'rānī maintains that when one knows this truth that man is incapable of changing what God has ordained for him, and thus no action by him would do any good in creating something which He did not intend

to create, at that time man would understand the rationale behind such variations in the *sharī'ah*. For it is God who wants His *sharī'ah* to be in a specific state so that He can measure the sincerity of His servants. Al-Sha'rānī maintains that it is purely out of Divine mercy that He sent down the prophets with commandments and commanded them to address the *mukallafs* according to their level of understanding. For, according to al-Sha'rānī, God did not create all human beings equally intelligent. He has given some spiritual strength but weak physical strength, and to others He has given intellectual strength and weak spiritual strength. By so doing God examines their degree of obedience to Him and maintains a balance in His creation. He is perfectly cognisant of what each and every individual is capable of. Thus, al-Sha'rānī maintains that, it is "due to God's primordial knowledge of the believers that He made them follow various *madhāhib*, which would lead them towards one single entity from which they would not be allowed to turn away to something else."¹²⁰ However, al-Sha'rānī suggests that, "these differences in the *madhāhib* are not on the basis of the religion,"¹²¹ as has been indicated by the *Qur'ānic* verse:

He has established for you of the religion which He enjoined on Noah and that which We have inspired to you, and that which We enjoined on Abraham, Moses and Jesus; (namely) that you should remain steadfast in the religion, and make no divisions therein.¹²²

Instead, according to al-Sha'rānī, these differences are found in the substantive laws (*al-furū'*).¹²³ The main purpose of these differences in opinion is "sometimes a means of raising men higher than they were, and sometimes to protect their status from defect."¹²⁴ He argues that it is valid to say that, "all the *takālīf* are laid down in order to elevate constantly those who perform them in their proper manner."¹²⁵ If God had created everyone in one state, then there would have been no need for Him to

mention any perfection, for perfection is known through the existence of imperfection. Therefore, in order to bring man towards this perfection, God, through His foreknowledge of what befits His servant, "creates for the servant a guiding *imām* who would make him understand the general opinion concerning the obligation in respect of his duty and who would inspire the servant to follow him, so that he would cling to what is most appropriate in respect of him."¹²⁶ It is due to this foreknowledge of God that He gave the author, al-Sha'rānī, the inspiration of witnessing the spring of the greater *sharī'ah* from which all the *madhāhib* branch out, and made him see by means of the *Qur'ān* and the *sunnah* the fundamental truth that, even though the paths to the source are varied, yet the source is one and the same, such that from whichever direction one scoops from it, it is one.¹²⁷ The differences, as mentioned earlier, occur owing to the differences among the *mujtahids*, who are not to be blamed for their shortcomings just because they, in reality, do not have any hand in the making of the *sharī'ah*. This is why the "mistake of the *mujtahid*" in the *ḥadīth* has been interpreted in the metaphorical sense.

Having caused the differences in the form of *madhāhib*, God has indeed shown us the path to reconcile them and thereby attain the best of what He had intended for us.

***Shara'ī* reconciliation of the variations**

In elucidating the reconciliation of the *shara'ī* variations, al-Sha'rānī says, "The *sharī'ah* came in respect of the injunction and prohibition in the two grades of *takhfīf* and *tashdīd* and not in a single gradation."¹²⁸ This is because God created the *mukallafs* in two divisions: *qawī* (strong) and *ḍa'īf* (weak) in respect of their belief or body in all

ages and times.¹²⁹ Therefore, whoever of them is strong both in body and belief is addressed with the *tashdīd* by which he takes resolute action (*al-‘azā‘im*), whereas whoever of them is weak is addressed with the *takhfīf* by which he takes the easier course of action (*al-rukhaṣ*).¹³⁰ *Mukallafs* belonging to both these categories conform to the *sharī‘ah* of their Lord at the time of their adherence to their respective categories.¹³¹ Therefore, neither will the strong be commanded to descend to the *rukhaṣ* nor will the weak be compelled to ascend to the *‘azīmah*.¹³² Al-Sha‘rānī firmly believes that only by attributing the contradictory opinions and *aḥādīth* to these two respective categories of the *mukallafs* according to their degree of *īmān*, *islām* and *iḥsān*, could one do away with the *sharā‘ī* differences. He maintains that this attribution of *takhfīf* and *tashdīd* to the *sharī‘ah* is such that it is impossible for us not to find two sayings together on one (and the same) law *mukhaffaf* and *mushaddad*.¹³³

Likewise, it is possible that in one single problem there will, at times, be three opinions or more or a single but detailed opinion.¹³⁴ Therefore, the clever one (*ḥādiq*) will refer all opinions to what is appropriate to it and nearer to it in respect of *takhfīf* and *tashdīd*, according to the ability of the individual.¹³⁵ This is because, according to what al-Sha‘rānī argues, all the opinions of the *mujtahids* range between the likely (*qarīb*) and the more likely (*aqrab*), and the unlikely (*ba‘īd*) and the more unlikely (*ab‘ad*), according the legal position of each individual, while the rays of the light of the *sharī‘ah* encompass and include all their opinions despite the fact that they differ in terms of *islām*, *īmān* and *iḥsān*.¹³⁶

Regarding acting according to the conflicting opinion, al-Sha'rānī quotes al-Shāfi'ī as saying:

To put two traditions or opinions into practice is better than to eliminate (*ilghā*) one of the two (traditions or opinions without practising it).¹³⁷

This, al-Sha'rānī says, is the perfection of the position of *īmān*.¹³⁸ On the other hand God has ordered the *mukallafs* to establish the religion and not to be divided in respect of it,¹³⁹ by protecting it from the collapse (*tahaddum*) of its pillars.¹⁴⁰

Further, al-Sha'rānī believes that the pure *sharī'ah* provided, in respect of the injunction and prohibition present in every issue, two degrees of *takhfīf* and *tashdīd* and not just single degree.¹⁴¹ For, had it provided one of the two sides of the balance only, then there would certainly be a great difficulty for the *ummah* in respect of the category of *tashdīd* and there would be no indications in the religion in respect of the category of *takhfīf*.¹⁴² Thus everyone who follows a particular *īmām* in respect of an issue wherein that *īmām* had given an opinion which was *tashdīd* would not have been permitted to act according to opinions of others in difficult and pressing situations. This would have posed great difficulties for the *ummah*.¹⁴³ That is why God made the *sharī'ah* of Prophet Muḥammad on a more perfect state through the "rule of equality", such that whenever a *mukallaf* is faced with *tashdīd* in one issue, there will be a *takhfīf* in the same issue, either in the form of a *ḥadīth*, or an *athar*, or in an opinion of another *īmām*, or by an opinion in the *madhhab* of that *mushaddid* which is less preferred.¹⁴⁴ This is the main reason for the occurrence of difference of opinion with the ensuing contradiction.¹⁴⁵ However, when there is no difference of opinion there is no contradiction in the same matter.¹⁴⁶ This is because, al-Sha'rānī

argues, "the totality of the *sharī'ah* goes back to *amr* and *nahy*, and each of these two, according to the 'ulamā', divides into two sides: *takhfīf* and *tashdīd*." ¹⁴⁷ As far as the fifth rule is concerned, it is the *mubāḥ* (permissible), which is the mean between the two sides. ¹⁴⁸ Through a good intention it refers to the division of *mandūb* (desirable), while by an evil intention it refers to the division of *makrūḥ* (undesirable). ¹⁴⁹ This makes up the totality of the laws of the *sharī'ah*. ¹⁵⁰ In explaining this, al-Sha'rānī says that among the *a'immaḥ*, there are those who have interpreted the term injunction (*muṭlaq al-amr*) to be the absolute necessity (*al-wujūb al-jāzim*). ¹⁵¹ While others have interpreted it to be recommended (*nadb*). ¹⁵² Likewise in the matter of prohibition some of them have interpreted it to be a prohibition (*taḥrīm*), whereas others have interpreted it as undesirable (*karāḥah*). ¹⁵³ There are people who act according to these interpretations. ¹⁵⁴ Thus, those who are strong in respect of their beliefs and bodies are called upon to perform the *'azimah* and the *tashdīd* which came in the *sharī'ah* clearly or that which is deduced from it in the *madhhab* of that *mukallaf* or others. ¹⁵⁵ On the other hand, those *mukallafs* who are weak in respect of their bodies and beliefs are called upon to perform the *rukḥṣah* and *takhfīf* according to what has come clearly in the *sharī'ah* and that which is deduced from it. ¹⁵⁶ It is due to this inability on the part of the *mukallafs*, that God has said:

So fear God to the level of your ability. ¹⁵⁷

While the Prophet is reported to have said to such a *mukallaf*:

If I order you to do a thing, do of it what you are able. ¹⁵⁸

Therefore, the strong man will not be commanded to descend to the level of *rukḥṣah* and *takhfīf*, while he is able to carry out the action on the

level of *'azimah* and *tashdīd*,¹⁵⁹ for this would be like playing with the religion.¹⁶⁰ Likewise, the weak man will not be compelled to ascend to the *'azimah* and *tashdīd*, when he is unable to act accordingly.¹⁶¹ However, if he takes on this burden of performing the *'azimah*, he should not be stopped, except in a *shara'ī* way.¹⁶² This is because, according to al-Sha'rānī the inability is of two types: physical inability and legal inability.¹⁶³ The physical inability refers to any physical defects,¹⁶⁴ while the legal inability is like the situation when a *mukallaf*, even if he is strong in terms of belief and body, wishes to reach a place where there is water in order to ritually purify himself but is prevented by a predator or a highway robber.¹⁶⁵ In this situation, if the *mukallaf* is determined to reach the place of water irrespective of the danger, he will gain no reward, even though he did that in the hope of earning a reward, following that saying of God:

Whoever performs a good act voluntarily, then it is good for him.¹⁶⁶

This cannot be considered a good effort, unless he is able to reach the place of water without endangering himself. If not, it will be tantamount to throwing oneself into self-destruction.¹⁶⁷ In such a situation the *mukallaf* should act according to the *rukḥṣah* and *takhfīf* of the *sharī'ah* by performing the ablution through *tayammum*.

This is a situation where there is a choice for the *mukallaf* to act according to what he deems to be appropriate for him. Otherwise in ordinary circumstances the stated two levels of *takhfīf* and *tashdīd* are on the order of obligation (*tartīb al-wujūbī*) and not on the order of choice (*tartīb al-takhyīr*).¹⁶⁸ Then al-Sha'rānī warns the readers not to commit the mistake of permitting a *mukallaf* who is physically capable of using water to perform *tayammum*.¹⁶⁹ Likewise one should not permit a

mukallaf who is able to stand in the obligatory *ṣalāt* to perform his *ṣalāt* sitting nor should one who is able to perform his *ṣalāt* sitting, perform it lying down on his side (*janb*).¹⁷⁰ The same is the rule in the rest of the *wājibāt*.¹⁷¹ Even in respect of the opinion regarding most meritorious (*afḍal*) of the acts of *sunnah* with regard to the less meritorious (*mafḍūl*) acts of *sunnah* these rules apply.¹⁷² Therefore, al-Sha'rānī stresses that it is not of *adab*¹⁷³ for one to do the less meritorious when he has the ability to do the most meritorious, even though the former is the original.¹⁷⁴ Therefore, whoever wants to avoid blame should not descend to the *mafḍūl*, unless he is incapable of performing the *afḍal*.¹⁷⁵

Further, al-Sha'rānī states with regard to the contradictory and opposing opinion in respect of the *shara'ī* laws and of its scholars that these are eliminated (*irtafa'a*), because "the speech of God and His Messenger are far from contradiction."¹⁷⁶ The same is the case with regard to the opinions of the '*ulamā*' and *mujtahids* as they are able to see the *manāzi'* (intent) of their sayings and places of their (i.e. the laws) deductions,¹⁷⁷ that is, from the *Qur'ān* and the *sunnah*.¹⁷⁸ This is the basis of al-Sha'rānī's balance. Explaining the term "the place of controversy (*manza'*)" of every opinion, al-Sha'rānī says that it is, "its starting point (*mansha'*)."¹⁷⁹ For example, regarding the opinion of some of the '*ulamā*' who prohibit the seeing of the face of a handsome beardless youth, al-Sha'rānī opines that the starting point of this opinion is caution.¹⁸⁰ The proof of this cautious person (*al-muḥṭāṭ*) is in accord with the saying of the Prophet:

Leave what causes uncertainty in you for that which does not cause uncertainty in you.¹⁸¹

Explaining further, the author says that when one ponders over the saying of God:

Do not approach (i.e.: handle) the wealth of the orphan, except (with the intention of bringing something) which is good (for the orphan in return),¹⁸²

it becomes clear that the prohibition from approaching the orphan, except in the way required, is aimed at deterring (*tanfīr*) harm from the orphan and his property.¹⁸³

Further discussion on al-Sha'rānī's exposition of the important theory of *takhfīf* and *tashdīd* is treated in a separate chapter that follows later.¹⁸⁴

The proofs for the Balance

In the course of al-Sha'rānī's exposition in the previous pages he has also tried to provide proofs. He states that the *shāri'* (i.e.: God) had sought from the *mukallafs* "the agreement and not the difference"¹⁸⁵ as has been stated in the *Qur'ān*.

He has established for you the religion which He enjoined on Noah and that which we have inspired to you and that which we enjoined on Abraham, Moses and Jesus, (namely) that you should remain steadfast in the religion, and make no divisions therein.¹⁸⁶

This is in respect of the agreement in which neither a *Qur'ānic* text nor a tradition provides evidence.¹⁸⁷ However, in respect of the agreement for which the *Qur'ān* and the *sunnah* give evidence, it is for the unification of the religion and not for its division.¹⁸⁸ Al-Sha'rānī gives the following *Qur'ānic* verses as the proof for this balance:

(1) God intends ease for you and does not intend difficulty for you.¹⁸⁹

- (2) He did not make any difficulty for you in respect of the religion.¹⁹⁰
- (3) Fear God to your ability.¹⁹¹
- (4) God does not compel a soul except according to its ability.¹⁹²
- (5) God is kind and merciful towards the people.¹⁹³

After mentioning these *Qur'ānic* verses, al-Sha'rānī goes on to list some of the *aḥādīth* which come as proofs for his balance. They are:

- (1) Religion is easy (to practise) none makes it difficult except it overwhelms him.¹⁹⁴
- (2) In respect (of what you could) enjoy and dislike, (follow) that which (is in) your ability.¹⁹⁵
- (3) If I ordered you to do something, do of it whatever you are able.¹⁹⁶
- (4) Go for ease and do not go for difficulty and give glad tidings (to people) and do not drive (them away).¹⁹⁷
- (5) The difference (of opinion) of my *ummah* is a mercy.¹⁹⁸

Commenting on the last listed *ḥadīth*, al-Sha'rānī says that it (i. e. *ikhtilāf*) is a broadening of scope for them and for their followers in respect of the conditions which are connected with the substantive laws (*furū'*) of the *sharī'ah*.¹⁹⁹ However, it should not be misconstrued that such differences are in respect of the basic principles of religion like *tawḥīd* and its related sciences;²⁰⁰ some maintain that differences are meant only for worldly matters.²⁰¹ The pious predecessors, as al-Sha'rānī maintains, used to dislike the very word *al-ikhtilāf*.²⁰² Instead they said that it was only a broadening of the meaning of the text, fearing that anyone among the common people might misunderstand it to be the opposite of what was intended.²⁰³ In this respect al-Sha'rānī quotes Sufyān al-Thawrī²⁰⁴ as saying:

Do not say (that) the '*ulamā*' differed in opinion on such and such a thing; (instead) say (that) the '*ulamā*' had broadened (the application of the meaning) to the *ummah* in such matters.²⁰⁵

Al-Sha'rānī gives the opinion of al-Shāfi'ī as a further proof for the validity of the two sides of the balance, that is, al-Shāfi'ī says:

To act according to two (different) *aḥādīth* or two opinions by relating them to two states is better than repealing one of them.²⁰⁶

Therefore, according to the author, no *imām* will raise any objection nor express ignorance of these two sides of the *sharī'ah*.²⁰⁷ When the *imām* is informed of the state of a *mukallaf* who is incapable of performing the '*azīmah*' which he has put forward, then he would certainly issue him a *fatwā* with *rukḥṣah* which has been put forward by others by way of *ijtihād*.²⁰⁸

Apart from the above proofs, al-Sha'rānī gives proofs from the Divine Revelation before the balance descended through Gabriel.²⁰⁹ In this respect he says that the people of *kashf* are unanimous that the five rules of the religion were sent down from different places and not from one place as it has been supposed by some of them.²¹⁰ Thus the *wājib*²¹¹ descended from the Highest Pen,²¹² the *mandūb*²¹³ from the Guarded Tablet,²¹⁴ the *ḥarām*²¹⁵ from the Throne,²¹⁶ the *makrūh*²¹⁷ from the Seat²¹⁸ and the *mubāḥ*²¹⁹ from the Lote Tree.²²⁰ The *wājib* and the *ḥarām* bear witness to the side of *tashdīd* while the *makrūh* and the *mandūb* bear witness to the side of *takhfīf*.²²¹ As far as the *mubāḥ* is concerned, it is a matter related to the *barzakh*,²²² which God made as a mercy to His servants so that, by performing it, they could get ease from the difficulty of the compulsion and hindrance.²²³ Thus, in that way they will neither be under injunction nor prohibition.²²⁴ This is because man is subjected to

hindrances which he has no power over.²²⁵ However, according to some of the *ārif*s, even the *mubāḥ* is divisible into *takhfīf* and *tashdīd*.²²⁶ That is by looking at what falls under category of being the best and that which falls short of the best.²²⁷ Al-Sha'rānī outlines the wisdom involved in specifying the sending down of the five rules from the above-mentioned places in these words:

The wisdom in respect of that is that every place supports its *ṣāhib*.²²⁸ Thus, from the Highest Pen, there will be a consideration of the *wājibāt*, thereby supporting its *ṣāhib* according to what he sees in it. From the 'arsh there will be a consideration of the *al-maḥzūrāt*, thereby supporting the *ṣāhib* with mercy. This is because the 'arsh is the seat of the name *al-Raḥmān* (The Merciful). Thus, He will not see the people in His presence except with the eye of Mercy.... according to that which suits him, (either by the) Mercy of Creation or the Mercy of Sustenance or the Mercy of Delaying the Punishment. From the *kursī* there will be a consideration of the *makrūhāt* and He will rush to its people with forgiveness and disregard. This is because the one who abstains from the *makrūh* will not be rewarded and He will not punish those who do it. As for the *sidrah* it is the fifth stage. It was called as *muntahā* because none of the actions of the sons of Adam will pass over it.... Thereafter it will depend on the behaviour of the *mukallafs*.²²⁹

The legal maxims which al-Sha'rānī quotes in the text can also be considered as proofs for this balance. They include the maxims like:

- (1) *al-maqāṣid ākadu min al-wasā'il*.
[the aims are more important than the means].²³⁰
- (2) *kullu mā juwwiza li al-ḍarūrah yataqaddaru bi qadrihā*.
[all that which was permitted for inevitable (situations) will be determined according to their measure].²³¹
- (3) *al-maysūr lā yasquṭ bi al-mas'ūr*.
[facility will not be cancelled by difficulty].²³²
- (4) *al-ḍarūrāt tubīḥ al-maḥzūrāt*.
[necessities permit the forbidden].²³³
- (5) *kullu man 'azumat martabatuhu 'azumat ṣaghīratuhu*.
[all those whose positions increase in greatness, their minor mistakes will be counted as great].²³⁴

(6) *ḥasanāt al-abrār saiyyi'āt al-muqarrabīn.*

[the good actions of the good people are the bad actions of those who are near to God].²³⁵

He also gives the opinions of other scholars which support this balance. He quotes particularly Ibn al-‘Arabī.²³⁶ What al-Sha‘rānī quotes from Ibn al-‘Arabī and other men of *kashf* is that if the servant followed the stations of the *ṣūfīs* confining himself to one *madhhab* alone without giving any consideration to other *madhāhib*, then that *madhhab* must bring him to the spring from where his *imām* has deduced his opinions. There, he will see that the opinions of all the *a’immah* are scooped from one sea. Thereafter, he will not necessarily restrict himself to his *madhhab*, instead he will judge all the *madhāhib* as equal in their validity as opposed to what he used to believe before.²³⁷

One may wonder why he has repeatedly claimed at many places in his *al-Mīzān*, that none has preceded him in composing a balance like this, even after God has revealed this truth in His Book. Did those who preceded al-Sha‘rānī overlook these *Qur’ānic* verses? Or were they simply ignorant of such a balance? If not, then in what way is al-Sha‘rānī's claim valid? These questions will be answered later when a study on the origin of the theory of *takhfīf* and *tashdīd* is made.

Purpose in composing *al-Mīzān*

In the introduction of *al-Mīzān*, al-Sha‘rānī states his purpose and aim in writing this balance. He says that personally he "likes agreement (*wifāq*) and dislikes disagreement (*khilāf*), especially in respect of the *qawā’id al-dīn* (principles of Religion),"²³⁸ even though the difference of

opinion is a mercy according to others.²³⁹ He says further that the greatest motives for him to write this balance are three fold:

(1) To act according to what is contained in *Qur'ān*:

He has established for you of the religion that which He enjoined on Noah and that which we have inspired to you, and that which we enjoined on Abraham, Moses and Jesus; (namely) that you should remain steadfast in the religion, and make no divisions therein.²⁴⁰

(2) To bring about agreement between the saying and belief of the *mukallafs* that "all the *imāms* of the Muslims are guided by their Lord,"²⁴¹ so that by undertaking the duty of following their *imāms*, they (i.e.: the *mukallafs*) may accumulate the rewards which result from that in the other world (*dār al-ākhirah*).²⁴² However, if the saying and belief of the *mukallafs* disagree with their *imāms* who are rightly guided by their Lord, then such *mukallafs* go beyond (*yakhruju*) "the quality of minor hypocrisy (*al-nifāq al-aṣghar*),"²⁴³ which the Prophet has blamed. Moreover, God has blamed the hypocrites among the unbelievers for their hypocrisy, which is in addition to the blame they acquired for their unbelief, in His saying:

O, you, the Messenger, let not those give grievance to you, who compete with one another in respect of unbelief (whether it be) among those who say: "we believe" with their lips whereas their hearts have no faith.²⁴⁴

(3) To discourage the *muqallids* from "hurrying towards criticising the *mujtahid* who opposes the principles of their *madhhab*."²⁴⁵ This is because the *mujtahid* is guided by his Lord²⁴⁶. By this, he may, perchance bring forth (*azhara*) his supportive evidence (*mustanad*) in his *madhhab* to one who criticises him so that the latter could acknowledge it.²⁴⁷

Genesis of *al-Mizān*

Describing the genesis of *al-Mizān*, al-Sha'rānī states that when he started teaching this balance to the students, they did not agree with it, until he agreed for it to be read by the scholars of the four *madhāhib*.²⁴⁸ Then they acknowledged its merit as it had been acknowledged by the scholars of the *madhāhib* and had proceeded to read it and copy it till the chapter on what is forbidden with regard to marriage.²⁴⁹ That was only after they asked him to elucidate it with an explanation which was fuller (*awsa'*) than the previous explanation, and to convey (*īṣāl*) its understanding to their hearts as an experience without undertaking any effort on the path of *riyāḍah*²⁵⁰ according to the principles of the *ṣūfīs*.²⁵¹ He says that that was as though they had, by that, "loaded on my back all the mountains of the world, despite my weak body."²⁵² Thus, he got into a situation that, whenever he tried to explain to them the concord between two *aḥādīth* or two opinions in one category (*bāb*), they would bring to his attention a *ḥadīth* or an opinion concerning another category which according to them contradicts the one which the author had presented (*muqābilahu*).²⁵³ From all these, al-Sha'rānī says he "earned (nothing but) severe fatigue."²⁵⁴ It was as if they had gathered together the rest of the religious scholars, from the first to the last until the Day of Judgement, who put forward their opinions in the circles of scholars and then had said to him, "Argue with all these people and make them see that all the *madhāhib* whether now lost (*mundarisah*) or still practising (*musta'malah*), are valid."²⁵⁵ For there is "no preference among them for one *madhhab* over the other *madhhab*, for all of them have been scooped from the spring (*'ayn*) of the Pure *sharī'ah*."²⁵⁶ That is the most difficult task which "the *'arīfs* could bear with (regard to) the secrets of

the rules of God."²⁵⁷ Then he sought proper guidance from God and answered their questions in explaining the Balance.²⁵⁸ In that al-Sha'rānī stuck to the ultimate of what he knew would create a great (*masīs*) need for it, through the exposition and the explanation of their meanings, both the *aḥādīth* of the *sharī'ah*, which were said to be contradictory to them, and all the opinions of the *mujtahids* and their followers in respect of all the chapters of the *fiqh*, i.e.: from the Chapter of Purification to the last chapter of the *fiqh*, which were based on the two sides of the *sharī'ah*, namely *takhfīf* and *tashdīd*, so that there would not remain with them any contradiction in respect of the *sharī'ah*, and instead it would become a source of kindness for them.²⁵⁹

As we would expect from a scholar like al-Sha'rānī, he explains the means by which he came to understand the balance as being a result of his *ṣūfī* outlook and his profound reading of the works of earlier scholars. As far as *ṣūfism* being at the heart of his balance was concerned, he explains it as follows:

(a) through *dhawq*,²⁶⁰ *kashf* and *yaqīn*

(b) through extensive reading and research on the evidences of his predecessors.

He states in this regard that he first took the knowledge, belief and the acceptance of this truth from al-Khiḍr. Thereafter, he took to *sulūk* under his spiritual mentor 'Alī al-Khawwāṣ to the extent that he was able to examine the "spring of the *sharī'ah* through *dhawq*, *kashf* and *yaqīn*, without even having any doubt as to the truth and the origin of the *sharī'ah*."²⁶¹ In the course of attaining this stage of witnessing the spring of the *sharī'ah*, al-Sha'rānī says that he undertook strenuous spiritual

exercises (*riyāḍāt*) such as tying a rope around his neck so that his flanks did not touch the earth, and he denied himself any food which did not befit his humble status.²⁶² Instead, he swallowed dust in the absence of such food;²⁶³ he did not eat anything till he completed his investigation on the source of the food and was not contented with the *rukḥaṣ* of the *shara'*.²⁶⁴ Thus, he looked into the colour or flavour or taste of the food.²⁶⁵ For the *ḥalāl*²⁶⁶ food he sensed a good flavour and for the *ḥarām* food he sensed a bad odour.²⁶⁷ However, for the *shubahāt*²⁶⁸ food, al-Sha'rānī says that, "there is a flavour different from the bad odour of the *ḥarām*" food.²⁶⁹ On the appearance of these signs he freed himself from looking at the possessor (*ṣāḥib al-yad*) of that food and he would not depend on him.²⁷⁰ Moreover, he did not pass through the places of injustice like the archway erected by Sultān al-Ghawrī²⁷¹ between his *madrasah* and his blue dome and other buildings of the governors (*wulāt*).²⁷² By these self-imposed restrictions, al-Sha'rānī attained the stage of piety.²⁷³ He was not alone in this matter.²⁷⁴ Other people had preceded him, like Ibrāhīm b Adham,²⁷⁵ who is, also, reported to have swallowed dust for twenty days, when he did not find food that befitted his humble status.²⁷⁶

Then when al-Sha'rānī attained this stage of piety, he managed to understand from the core of his heart "about the essence (i.e.: spring) of the pure *sharī'ah* from where the opinion of every scholar branches out"²⁷⁷ and there he says that he saw that "for every scholar there is a stream from it, and I saw all of them as a pure *sharī'ah*, and I learnt and ascertained that every *mujtahid* is correct (both) in *kashf* and *yaqīn* and not in supposition and approximation,"²⁷⁸ and that there is "no *madhhab* better in terms of the *sharī'ah* than any other *madhhab*."²⁷⁹ His conviction of this reality is so firm that he did not easily incline towards

one who debated with him without any clear proof for the preference of one *madhhab* over another.²⁸⁰ However, he says that he might have done it out of sociability towards the debater and said to him, "Yes, your *madhhab* is preferred"²⁸¹ that is for the debater, since he is veiled from seeing this reality.²⁸² Then al-Sha'rānī describes what he has seen in the spring. According to his narration, he saw the *madhāhib* of the *mujtahids* as streams emanating from the spring of the *sharī'ah*.²⁸³ From the totality of what al-Sha'rānī had seen in the spring of the *sharī'ah* are the streams of all those *mujtahids* whose *madhāhib* are lost.²⁸⁴ However, they had dried and had become mere stones. He did not see any stream running from them except the streams of the four *imāms*.²⁸⁵ He interpreted that to mean that "their *madhāhib* will exist until the appearance of the Final Hour."²⁸⁶ Then al-Sha'rānī says that he "saw the opinions of the four *imāms* going out from inside the streams."²⁸⁷ This is because the opinions of the '*ulamā*' of the *madhāhib* reach the *sharī'ah* and enable one who acts by it to reach the Door of the Heaven, if God wills.²⁸⁸ Therefore, according to al-Sha'rānī's opinion, all those *madhāhib* which are prevalent now are attached to the ocean of *sharī'ah*, like the attachment of fingers to the palm, and the attachment of the shadow to the pole.²⁸⁹ He says that after realising this truth, he withdrew from his previous belief which he used to believe in before;²⁹⁰ he used to give preference to his *madhhab* over the others, and believe that the right one among the *imāms* was only one, but without specification.²⁹¹ Then, when he went to perform his *hajj* in the year 947 *hijrī*²⁹² he prayed to God in the *hijr*²⁹³ under the *mīzāb*²⁹⁴ of the *ka'bah*²⁹⁵ to increase him in knowledge.²⁹⁶ There he heard a voice from the sky saying, "Is it not sufficient for you that we have given you a Balance by which you will establish all the

opinions of the *mujtahids* and their followers till the Day of Judgement which you will not see anyone among your contemporaries experiencing. Then you said 'God is sufficient for me', and asked for increase in knowledge?"²⁹⁷

Thus, he establishes the Divine origin of his *al-Mīzān*. That is, he attained this stage of balancing the contradictory opinions and *aḥādīth* through adhering to the *ṣulūk*²⁹⁸ and undertaking strenuous spiritual exercises, and he managed to earn this Divine Favour. It is on this basis that he makes his assertion that none had preceded him in composing a balance like his. However, the list of books he states that he studied before arriving at this balance could have contributed to his formulating the balance. He states in this respect that he realized this through *dhawq* and not through *‘ilm*. For al-Sha‘rānī maintains that, " *‘ilm* will stay away from its possessor and veils from him as opposed to *dhawq*."²⁹⁹ Thus, he classifies the books which he had studied before laying down this balance under the following three categories:

(1) books, the texts of which he had committed to memory.³⁰⁰

(2) books, the commentaries of which he had studied under the *‘ulamā’*.³⁰¹

(3) books, which he had studied on his own and consulted the *‘ulamā’* when faced with difficulties in comprehending them.³⁰²

After giving a long list of works he had consulted before laying down this balance, al-Sha‘rānī stresses that whoever doubts that he studied these works, "should bring to me any book he wishes from these books and recite it before me and I shall solve it without studying it."³⁰³ Thereafter he advises those who wish to have a comprehensive

understanding of the opinions of the 'ulamā' to study in the same way that he had studied.³⁰⁴ One may wonder why he had listed all these works which he had studied before laying down this balance. In other words, does this categorization of *takhfīf* and *tashdīd* also apply in all these fields of study? Al-Sha'rānī argues that the principles of *takhfīf* and *tashdīd* apply to all the sciences of the *sharī'ah* including *lughah*,³⁰⁵ *naḥw* and *uṣūl*.³⁰⁶ Thus to require ordinary people to recite the *Qur'ān* with the meticulous pronunciation of an expert on classical Arabic would be *tashdīd* (and probably impossible to achieve),³⁰⁷ whereas to allow them to recite somewhat incorrectly would be *takhfīf*.³⁰⁸ Presumably the incorrectness is one of faulty pronunciation.³⁰⁹ Similarly a student who is required to study the *Qur'ān* and *ḥadīth* in the light of the full range of grammatical and linguistic rules of the Arabic language is subject to *tashdīd*, whereas the one who is allowed to limit his study to the mere inflection (*i'rāb*) is allowed the *takhfīf*.³¹⁰ The study of these sciences involves both *farḍ kifāyah*³¹¹ and *farḍ 'ayn*³¹² in terms of *tashdīd*.³¹³ Provided there are 'ulamā' who are fully cognizant of the sciences, the *farḍ kifāyah* is attained.³¹⁴ However, anyone who wants to embark on the full study is subject to the *farḍ 'ayn* of the *tashdīd* in terms of his study.³¹⁵

In reply to a hypothetical question: "What is the benefit of composing this Balance, when it is known that the people of all the *madhāhib* know that all those who are incapable of performing the 'azīmah, are permitted to act according to the *rukḥṣah*?",³¹⁶ al-Sha'rānī says:

The answer is that what this man has said is valid, but the people of the *madhāhib*, if they act according to the *rukḥṣah*, will act according to it, but they have (some) limitation and inconvenience thereof in themselves due to their lack of knowledge of its basis and its agreement with the Book and the *sunnah* as opposed to the Master of this Balance. He acts

according to it with a joyful heart because he understands its basis and its agreement with the Book and the *sunnah*. Therefore, what is the position of one who is certain in respect of the validity of his worship to one who doubts it?³¹⁷

Manner of reaching the spring of the pure *sharī'ah*

Al-Sha'rānī states that one should try to establish the evidence and proof for all the opinions of the *imāms* and their *muqallids* either by:

- (1) *Nazar* (speculation) and *istidlāl* (inference).
- (2) *Taslīm* (acceptance) and *īmān* (belief) or
- (3) *Kashf* (unveiling) and *'iyān* (direct-vision).³¹⁸

And there is no other way. It is, therefore, necessary for every Muslim to have one of these ways in order that his belief agrees with his saying that all the *imāms* of the Muslims are guided by their Lord in all opportunities and times.³¹⁹ This is because the belief of one who says that all the *a'imma* are guided by their Lord, but keeps away from acting according to the opinion of people other than his *imām* is not perfect except if his action agrees with the opinion of every *mujtahid* equally.³²⁰ Thus, for all those who did not attain this belief by way of *kashf* and *'iyān*, it is obligatory to believe that by way of *taslīm* and *īmān*.³²¹ For, al-Sha'rānī quotes al-Shāfi'ī as saying "Acceptance is half of *īmān*."³²² While al-Rabī' al-Jizī³²³ said to him "Nay, it is the whole of faith, O, Abū 'Abd Allāh."³²⁴ Further, al-Shāfi'ī is reported to have said:

It is of the perfection of faith of the servant that he does not discuss the principles, nor does he question it with "why" nor "how."³²⁵

This is only for those who are unable to understand the means of deducing the law from the sources. As for those who are able to infer such laws from the sources, al-Sha'rānī suggests that they could attain the

ability to reach the spring of the *sharī'ah* only through *kashf* and *yaqīn*.³²⁶ Such an ability is a favour from God, as has been stated in the *Qur'ān*:

That is a favour of God which is given to whomsoever He wishes.
Verily God is a Master of the greatest favour.³²⁷

This is because, according to al-Sha'rānī, the ability to reach the position of the *a'immaḥ* through thought process or inference was not claimed by anyone after the four *a'immaḥ*, except Muḥammad b Jarīr al-Ṭabarī.³²⁸ However, this has not been established.³²⁹

Nevertheless it is attainable, according to al-Sha'rānī, by one who adheres to the *sulūk* under the guidance of the spiritual master who is cognisant (*'ārif*) of the balance of every movement and pause on condition that he submits himself to him (i.e. to the spiritual master) so that he (i.e. the spiritual master) could have the right of disposal over him and over his wealth and his family in whatever way he (i.e. the spiritual master) wishes with the completely delighted (acceptance) of the *murīd*'s heart.³³⁰ This adherence to the *sulūk* and submission to the spiritual master might be difficult to bear. For instance, al-Sha'rānī says that when a spiritual master tells his *murīd* to divorce his wife or to give up his right over his wealth or his job and the *murīd* hesitates, then he will "not get any sniff of the way to reach the spring of the abovementioned pure *sharī'ah*, even if he worships God for a thousand years in the customary manner."³³¹

When a person studies the spring of the *sharī'ah*, it is not valid for him to be ignorant of any of the principles of the rules pertaining to the *sharī'ah* nor of the disputed opinions of the '*ulamā*',³³² instead, as al-Sha'rānī emphasises, he should begin to establish all the *madhāhib* of the

mujtahids and their followers in his heart.³³³ There is no need for him to look into the *Qur'ān* because a person of this status knows through *kashf* and *yaqīn* the method of the chain of every opinion in respect of the knowledge towards the *sharī'ah* and thus he knows from where in the Book and the *sunnah* the *mujtahids* took their opinions.³³⁴ Such a person even knows, according to al-Sha'rānī, that the authority of every opinion is based on the Precinct of the Name which emanates from the Divine Precinct.³³⁵ This is the true status of the '*ulamā*' with regard to God and His laws.³³⁶

Therefore, it is obligatory on the *mukallaf* to adhere to this path under a *shaykh* till he reaches the stage of witnessing the first spring of the *sharī'ah*.³³⁷ This is because, according to al-Sha'rānī, "all that which does not enable one to reach the *wājib*, except through it, is itself a *wājib*."³³⁸ Thus the witnessing of the spring of the *sharī'ah* should be according to the status of *īmān*, *islām* and *iqān*³³⁹ of the *mukallafs*, by virtue of the fact that "for every one of these statuses there is a spring which is peculiar to it, just as for every act of '*ibādah* there is a condition in respect of all its statuses which is known to the *ahl al-kashf*."³⁴⁰ It is on the basis of this that one of them begins to believe that every *mujtahid* is right and that all the *a'imma*h of *Islām* are guided by their Lord.³⁴¹ However, this belief will not be valid, except when it is held with certainty (*jāzim*).³⁴² The real certainty will not be valid except by witnessing the spring from where all opinions branch out.³⁴³

In following the *sulūk* one must adhere to the following conditions³⁴⁴:

(1) the *murīd* should not spend a single moment in ritual impurity neither in the day nor at night.

(2) He should not break fast, during his *suḥr* period, except for necessity.

(3) He should not eat anything in which there was an animal soul.

(4) He should not eat except when early indication of emergency occurs.

(5) He should not eat the food of any man who is careless in respect of his occupation, like one whom the people feed because of his piety and asceticism.

(6) He should not allow himself to be unmindful of God at any moment. Instead he should continuously perform his *murāqabāt*³⁴⁵ night and day.

Even after adhering to the restrictions imposed for the attainment of piety such as eating the permitted things and abstaining from sins, one cannot attain the position of standing on the first spring of the *sharī'ah*, without a spiritual mentor.³⁴⁶ This is because, al-Sha'rānī maintains, "In the pious deeds of the servants there are imperfections. Nay, if the removal of the imperfection from his worship is assumed, then it will not be valid for him to attain the (status of) standing at the spring of the *sharī'ah*, due to his imprisonment within the confinement of *taqlīd*³⁴⁷ towards his *imām*."³⁴⁸ As long as he is veiled by his *imām* from witnessing the spring of the *sharī'ah*, it will not be possible for him to surpass his *imām*, except by following another person who is above the *imām* in spiritual station, like the *'arīfs*.³⁴⁹

Therefore, anyone wishing to attain the understanding of the balance through *dhawq* and wanting to establish the *madhāhib* of the *mujtahids* and their *muqallids*, must follow the path of the *qawm* and the *riyāḍah* under a true *shaykh* who has experience in the path so as to teach him the sincerity and truthfulness in respect of knowledge and action, thereby removing the frivolities of the self which hinder him.³⁵⁰ The *murīd* should imitate the *shaykh*'s direction until he reaches the status of "relative perfection (*al-kamāl al-nisbī*)"³⁵¹...and witnesses the first spring of the *sharī'ah* from which the opinions of every *'ālim* spring out.³⁵² On the other hand proceeding without a *shaykh* he will not be free from pride, arguments and rivalry in worldly matters.³⁵³ Therefore, it will not make him reach the spring of the *sharī'ah* even if all his contemporaries bear witness to him with the title of *al-quṭbiyyat al-kubrā*.³⁵⁴ However, al-Sha'rānī contradicts himself in another place in the text where he says, "Whoever has been called a *quṭb* (Spiritual Pole) cannot be a *murīd* to another *quṭb*. Even some men of certitude (*muḥaqqiqs*) have said: 'Since the *quṭb* is unable to encompass his own stations, how is it possible for him to know the merits of those other than him?'"³⁵⁵ This is because, the author suggests, "The attributes of a *quṭb* in respect of *'ubūdīyah* (servanthood) contradict the qualities of *rubūbīyah* (mastership), since it is not possible to limit the attributes of *rubūbīyah*, likewise one cannot limit the attributes of *'ubūdīyah*."³⁵⁶ In elucidating this Muḥyī al-Dīn Ibn al-'Arabī says in the 73rd chapter of his *Futūḥāt*³⁵⁷ that "whoever follows the path without a *shaykh* or without observing piety over what God had prohibited, then there is no means for him to attain the gnosis (*ma'rifah*) of God....even if he worshipped God for as long as the age of Noah."³⁵⁸ Thereafter, when the servant reaches the

gnosis of God, there is "after that neither a purpose nor a progress beyond God."³⁵⁹ There he will study by *kashf* and *yaqīn* the Presence of Divine Names and he will see the connection of all their opinions with the Presence of the Names and there the disagreement with him in respect of all the *madhāhib* of the *mujtahids* will be removed due to his witnessing the integration of all their opinions with the Precincts of the Names and Attributes.³⁶⁰ Thus none of their opinions will be excluded from their presence.³⁶¹

Even though al-Sha'rānī places great importance on the knowledge attained through *kashf*, he nevertheless asserts that one should "compare the knowledge which he gained through *kashf* with the Book and the *sunnah* before acting according to it."³⁶² This is due to the possibility of his *kashf* being permeated with the deceit of the *Iblīs*,³⁶³ whom God has made powerful, so as to erect for the *mukāshif* the picture of the location from where he took his knowledge of the Sky, or the Throne, or the Seat, or the Pen, or the Guarded Tablet, whereas he might be mistaken that the knowledge is from God, thereby making himself go astray and leading others astray.³⁶⁴ Therefore al-Sha'rānī suggests that after making such comparison between the *kashf* and the *naqlī*³⁶⁵ evidences, one should act according to that in which they agree, and if not he should abstain from acting upon it.³⁶⁶ However, whoever took his knowledge from the spring of the *sharī'ah* without deceit by way of his *kashf*, then it is not valid for him to withdraw from it as long as he lives, since it agrees with the *sharī'ah*.³⁶⁷ In short, al-Sha'rānī says that the correct *kashf* will always be in agreement with the *sharī'ah*.³⁶⁸ From this one will know that the nature of *kashf* is to complement the *naqlī* evidences. That is, it does not add anything new to the knowledge, instead it helps to strengthen one's

conviction. Despite al-Sha'rānī's emphasis on the importance of *kashf*, he does not discuss whether *kashf* does in any way add to that which has already been revealed in the *Qur'ān*, because this could be misconstrued to mean that the *Qur'ān* is deficient in knowledge, whereas it clearly states that nothing has been left out of it, meaning that it is comprehensive and perfect. Perhaps, the role of *kashf* is merely to confirm what has been stated in the *Qur'ān*. In other words, "*kashf*", as the author says, "Is a way of conveying information on a matter according to what it is in itself."³⁶⁹ And the recipient of such *kashf* is on par with the *mujtahids* in respect of certitude.³⁷⁰ "Nay", al-Sha'rānī says, "he might have gone above some of them due to scooping of his knowledge from the spring of the *sharī'ah*."³⁷¹ Moreover, he says that for such a person there is "no need for him to acquire the tools of *ijtihād* which they (i.e.: the *a'immaḥ*) had made a condition in respect of the *mujtahid*."³⁷² Al-Sha'rānī compares this person to an ignorant man sailing through the sea who comes with a scholar to fill his waterskin (*siqā'ahu*) with water.³⁷³ There is no difference between the water which the scholar takes and the water which the ignorant takes.³⁷⁴ This is the rule of all people who believe in this balance in terms of the laws which the *sharī'ah* has declared as opposed to what it has not declared.³⁷⁵ However, if a person wishes to deduce it from an *āyah* or a *ḥadīth*, he certainly needs to understand the instruments like *naḥw*, *uṣūl*, *ma'ānī*³⁷⁶ and others.³⁷⁷

However, according to al-Sha'rānī, in the event of one's non-comprehension of the balance through *kashf* and *dhawq*, one should act according to the preferred opinion, as long as one did not reach the status of experiencing this balance.³⁷⁸ However, it is not appropriate to act according to the less preferred (*marjūḥ*) opinion, except if it is considered

more prudent (*aḥwat*) in respect of the religion than the preferred opinion.³⁷⁹ As an example, al-Sha'rānī quotes the opinion of the Shāfi'ites in respect of the nullification of purification (i.e.: ablution), by touching a young girl, the hair and the nail.³⁸⁰ Even though they considered this opinion as weak, it nevertheless is prudent in respect of religion. Therefore, to repeat ablution is better.³⁸¹

ENDNOTES TO CHAPTER ONE

1 *Al-Mizān*, 1:2.

2 *Ibid.*

3 *Ibid.*

4 *Ibid.*

5 The word 'ayn has a number of meanings including eye, look, hole, eye of a needle, eyelet, bud of a tree, small opening, defect, aspect, countenance, spy, watcher, stroke of the evil eye, party of men, direction, human being, self, substance, one of the two saddle-bags, one scale of a balance, sun, money, cash and so on. see Hava, J.G., *al-Farā'id al-Durriyyah: Arabic - English Dictionary*, 5th. edi., (Beirut, 1982), p. 514. However, for the philosophers this term denotes a particular concrete thing perceived in the outside world as distinguished from the concept of that thing in the mind; in this sense it is synonymous with the term *shakhṣ*. It is also sometimes used in the sense of substance. The *ṣūfīs*, on the other hand, use the term 'ayn for the inner essence of a thing and more specifically for the universal idea of a thing eternally existing in the mind of God. Hence the term *al-a'yān al-thābitah*...for the eternal ideas existing in the mind of God which are said to be really real, of which this world is a mere shadow or dream according to the Platonic tradition. see Sheikh, M. Saeed, *A Dictionary of Muslim Philosophy*, (Lahore, 1970), p. 79. Al-Sha'rānī uses this term in the sense of "spring", though it is known in Arabic as a 'yun. However, he is not consistent in his use of the term spring. Occasionally he calls it as the ocean of *sharī'ah* (*baḥr al-sharī'ah*) see *al-Mizān*, 1:28.

6 *Al-Mizān*, 1:2.

7 *Ibid.*

8 *Ibid.*, 1:4, 7 and 25; *al-Qur'ān*, 42:13. Commenting on this verse al-Rāzī says, "this verse indicates that the *sharā'i'* are of two kinds: that which does not entertain abrogation and changes therein, instead, it is essential to be maintained in all *sharā'i'* and religion, like opining about the ugliness of lies, injustice and so on; that which changes with the change of the *sharā'i'* and religion". see al-Rāzī, Fakhr al-Dīn Muḥammad b. Diyā' al-Dīn 'Umar, *Tafsīr al-Kabīr wa mafātīḥ al-Ghayb*, (Beirut, 1985), 27:157. Hereafter cited as *Mafātīḥ*. Thus the fundamentals of the *sharī'ah* remains fixed from the *azal* [this term is defined below], while the peripherals of it change according to the changing circumstances. This is not only true in respect of the greater *sharī'ah* that which was revealed to all the prophets - but also true with the *sharī'ah* which was revealed to the Prophet Muḥammad. Commenting on the causes for such variations and differences in the greater *sharī'ah* in different ages, Shah Wali Allah says that when the signs of the old *sharī'ah* are nearly lost, and no more practised and mankind is heading towards a crisis, the new *sharī'ah* comes to rescue the suffering humanity from further ruination. However, whenever, a particular *sharī'ah* is planned for the people, due consideration is always paid to their bodily and intellectual abilities. Thus, from Adam down to the time of the Prophet Idrīs, humanity was passing through its initial stage and its development was restricted to the first *irtifāq* (stage of social evolution). Then came the age of Prophet Nūḥ, wherein people were stout and strong in their physique. Accordingly they were given a *sharī'ah* suitable for crushing their animal vitality. Praying at night and fasting during the day was made obligatory for them, and in addition to these, other forms of rigorous worship were also prescribed in order to suppress their bestiality. During the ages of Hūd and Ṣāliḥ, the people of 'Ād were punished for their mistreatment of their prophets. Mankind during the intervening period of Ṣāliḥ and Ibrāhīm had departed from the mainstream of the belief in the unity of Divinity and started worshipping and adoring other objects of nature. But this situation was rectified by the sending down of the Prophet Ibrāhīm who advocated the religion of *fiṭrah*, by making the human heart the manifestation of Divinity and the seat of its sciences, and this was known as *ḥanafīyah*. He was followed by many other prophets like Yūsuf, Dāwūd and Sulaymān. Dāwūd was skilled in the state administration and in the rule of the country. He fixed the limits of religion, waged wars against unbelievers and was an expert in solving difficult problems. All of them did nothing regarding the caliphate. But, it was during Mūsā's time that the caliphate took a definite shape. During the time of his successor 'Isā, some leniency in the *sharī'ah* was introduced. Some things which were previously unlawful for people were rendered lawful for them. Even after these leniencies people deviated from the teachings of Prophet 'Isā. The situation remained as it was till the appearance of Prophet Muḥammad, who was sent as the seal of the prophets. see Jalbani, G.N., *Teachings of Shah Waliyullah of Delhi*, (Lahore, 1967), pp. 96-9. Unfortunately Jalbani has arranged the prophets out of order.

9 *Al-Mizān*, 1:33.

10 *Ibid.*

11 *Ibid.*, 1:34. This is because, to quote al-Sha'rānī, "in the Divine Precinct no change and abrogation are accepted". *Ibid.*, 1:47.

12 *Ibid.*, 1:34.

13 *Ibid.*, 1:42.

14 *Ibid.*, 1:34.

15 *Ibid.*, 1:30. This *ḥadīth* seems to be mentioned only by Tabarānī. See al-Ṭabarānī, 'Abd al-Qāsim, *Mu'jam al-kabīr*, ed. by Ḥamdī 'Abd al-Majīd al-Salāfī, 2nd ed., (Beirut, 1980), 16:152.

16 *Al-Mizān*, 1:7.

17 *Ibid.* This term should not be confused with the term Mohammadism. For both have different connotations. The former refers to the community of the Prophet, while the latter seems to imply that *Islām* was a religion invented by the Prophet Muḥammad.

18 *Al-Mizān*, 1:7.

19 *Ibid.*

20 This is the plural of the term *ummah* [see note 12 on p. 33].

21 *Al-Mizān*, 1:7.

22 *Ibid.*, 1:7.

23 *Ibid.*, 1:26-7.

24 *Ibid.*, 1:27.

25 *Ibid.*

26 *Ibid.*, 1:49. Literally Mahdī means "the guided one". *Hughes*, p. 305; *EI*, 3:111; Ibn Khaldūn, 'Abd al-Raḥmā, *al-Muqaddimah*, ed. by Ḥujar 'Asī, (Beirut, 1986), 2:142; *EORE*, 8:336; Friedlaender, Israel, *The Heterodoxies of the shiites in the presentation of Ibn Ḥazm*, in *JAOS*, 29:52. It is stated that he will be among the *ahl al-bayt* (i.e.: the member of the Prophet's household); that is he will be among the descendants of Fāṭimah. see *Mājah*, 2:517-9.

27 *Al-Mizān*, 1:49.

28 *Ibid.*

29 *Ibid.*

30 *Ibid.*

31 *Ibid.*

32 It is believed that Jesus will descend for the second time, but as a "follower of Muḥammad, for the law of Jesus has been abrogated (*nusikhat*). There will be no revelation nor setting up of judgements on his behalf, but he will be a *khalīfah* (vicegerent) of the Messenger of Allah. Thus it is more correct to say that he will worship with the people and lead them [in worship]". see *Mājah*, 2:507-17; Elder, Earl Edgar, *A Commentary on the Creed of Islam: Sa'd al-Dīn al-Taftāzānī on the Creed of Najm al-Dīn al-Nasafī*, (New York, 1950), p.132. Hereafter cited as *Elder*. see also *Tha'labī*, *op.cit.*, p. 270; *al-Futūḥāt*, *op.cit.*, 11:252.

33 *Al-Mizān*, 1:49.

34 *Ibid.*

35 *Ibid.*

36 *Ibid.*, 1:42.

37 *Ibid.*

38 *Ibid.*, 1:38.

39 The word *kashf* literally means unveiling or removal of the veil. Technically it means "the studying that which is behind the veil of the hidden meanings and the matters of the reality as in presence and witnessing. see *al-Ta'rīfāt*, p. 193. Thus *ahl al-kashf* means people of unveiling who are able to study the otherwise hidden meanings of the reality - a term used synonymously with the *sūfis*.

40 *Al-Mizān*, 1:42.

41 *Ibid.*, 1:11 and 37.

42 *Ibid.*, 1:11.

43 i. e.: one who is learned. Its plural is '*ulamā*'. Also refer to note 140 on p. 39.

44 *Al-Mizān*, 1:37.

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

48 *Ibid.*

49 Ibid.

50 Ibid.

51 Ibid.

52 The term *ijmā'* literally means "*al-'azm*" or "*al-ittifāq*." Technically it refers to the agreement of the *mujtahids* of the *ummah* of Muḥammad in a period of time on a legal rule. This agreement could be in the form of upholding the same belief, or sayings, or actions, or silence, or tacit approval. see *Tahānawī*, p. 238; *al-Ta'rifāt*, p. 8. It is of two kinds: 1) *murakkab* (Compound) and 2) *ghayr murakkab* (Non-Compound). For details see *Tahānawī*, p. 240.

53 Al-Mizān, 1:37.

54 Ibid., 1:30.

55 Ibid., 1:2.

56 Ibid., 1:2-3.

57 Ibid., 1:3.

58 Ibid.; al-Qur'ān, 22:78.

59 Al-Mizān, 1:55.

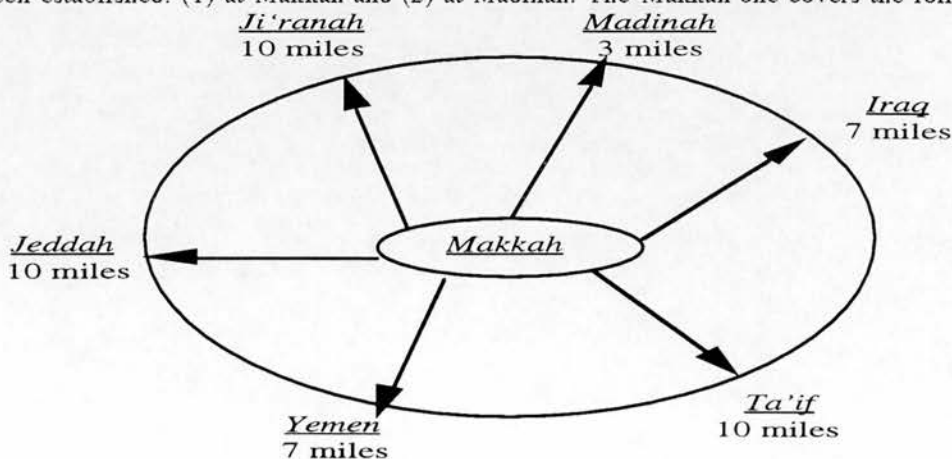
60 Ibid.

61 It is called lemon grass *Andropogon Schoenanthus*. It may have been known in the ancient Mesopotamia. Dioscorides calls it as aromatic rush. The best he claims from Nabutaeu; then the Mesopotamica. The Libyan variety is inferior. Galen considers it to be slightly astringent and diuretic. In India, lemon grass is given to children as an infusion for weak digestion. Maimonides says that *idhkhir* is *tibn makkah* in the Maghrib and its flower is *jawz jīna*. The latter comes from Persian *gor giāh*, "herb of the wild ass". Ibn Baytar quotes Abū Ḥanifah as writing that lemon-grass has a root buried in the ground, thin twigs, and a pungent odour. Today the *Schoenanthus* is sold in Egypt as a diuretic, emmenagogue, astringent and as a heating agent. see Levey, Martin (trans.), *The Medical Formulary or Aqrābādhīn of al-Kindī*, (Madison London, 1966), pp. 225-6; Meyterhof, Max, *Moses Maimonides' Glossary of Drug Names*, trans. and ed. by Fred Rosner, (Michigan, 1979), pp. 9-10; Qal'ajī, Muḥammad Rawwās and Ḥamid Ṣādiq Qunalbī, *Mu'jam lughat al-Fuqahā': Arabic - English*, (Beirut, 1985), p. 52. Hereafter cited as Lughah.

62 He is al-'Abbās b 'Abd al-Muṭṭalib, a paternal uncle of the Prophet, born two years earlier than the Prophet. After the battle of Badr, he embraced *Islam* and he used to send reports on Makkah to the Prophet. He migrated to Madīnah a little before the conquest of Makkah. About him the Prophet has said, "whoever hurts al-'Abbas he has indeed hurt me" and as "the best of the Quraysh". He died in Madīnah in 32 *hijrī*. [see al-'Asqalānī, Shihāb al-Dīn Abū al-Faḍl Aḥmad b 'Alī b Ḥajar, *al-Isābah fī tamyīz al-Ṣaḥābah*, (Cairo, 1328 h), 2:271]. Hereafter cited as Isābah.

63 al-Mizān, 1:55; Nisā'ī, 5:160-1. Regarding whether the Prophet said it through his *waḥy* or through his *ijtihād* al-Suyūṭī says that people differed in respect of that. Some said, "God has given him the absolute authority in this issue". While some others opine that it was revealed to the Prophet before the event took place that if anyone asks for exception for anything from that (i.e.: the trees), then answer his question. see al-Suyūṭī, Jalāl al-Dīn, *Zahr al-Rabā' alā al-Mujtabā*, (Cairo, 1964), 5:161.

64 It is the limit or boundary of the sacred place. There are two places where such limits have been established: (1) at Makkah and (2) at Madīnah. The Makkan one covers the following areas:



While at Madīnah the *ḥaram* is between the two mountains in length and the two valleys in width. see *Lughah*, op. cit., p. 178. The sacredness of the limits indicate that within these places certain acts are unlawful which are lawful elsewhere, such as carrying arms, killing, cutting grass or the like. According to 'Alī b Abū Ṭālib the sacred limits of Madīnah are from Jabal 'Air to Ṣaur. However, according to Burton, the diameter of the *ḥaram* at Madīnah is from ten to twelve miles. see *Hughes*, p. 163.

65 *Al-Mizān*, 1:55

66 *Ibid.*

67 *Ibid.*

68 *Al-Mizān*, 1:55. It is stated in the *Qur'ān*: *lā tas'alū 'an ašhyā' in tubda lakum tasu'kum*. *Ibid.*, 5:101.

69 *Al-Mizān*, 1:55.

70 *Ibid.*

71 *Ibid.* The text of the *ḥadīth* is *kasb al-ḥajjām khabīthun wa mahr al-baghī khabīthun* [the work of the copper is offensive and the dower of a prostitute is offensive]. This *ḥadīth* is recorded in the *Musnad* of Ibn Ḥanbal and the *Ṣaḥīḥ* of Muslim. It is stated that the work of copper is offensive, that is detestable due to its lowliness (*danā'ah*) and it is not generally prohibited, for the majority have permitted it. This *ḥadīth*, according to them is abrogated by that *ḥadīth* in which the Prophet had paid the copper after having his blood cupped. It is also stated that the prohibition was intended for avoidance (*tanzīh*) and for (cultivation of) noble characters. Commenting on this *ḥadīth*, *al-Nawawī* says, "the '*ulamā*' differed in respect of the work of the copper. Most of the *salaf* and the *khalaf* opined that the work of the copper is not prohibited...by a free person but not a slave. This is the predominant opinion in the *madhhab* of Aḥmad b Ḥanbal...They based their opinion on the *ḥadīth* of Ibn 'Abbās that the Prophet paid the copper after he had been cupped by the former. They argued that if it had been prohibited the Prophet would not have paid his fee...Whereas those who took this *ḥadīth* as prohibition opined that if it had been prohibited, then there is no need to differentiate between a free person and the slave. For, it is not allowed for a person to free his slave with that which is not legally permitted (*ḥalāl*). see *al-Nawawī*, Zakariyyā b Yahyā, *Ṣaḥīḥ Muslim bi sharḥ al-Nawawī*, (Beirut, 1987), 10:233. Hereafter cited as *Nawawī*. Al-Tirmidhī says that some of the scholars among the *ṣaḥābah* and others made *rukḥṣah* in respect of the work of the copper. This is also the opinion of al-Shāfi'ī. see al-Tirmidhī, Abū 'Isā Muḥammad b 'Isā b Sūrah, *Sunan al-Tirmidhī wa huwa al-Jāmi' al-Ṣaḥīḥ*, ed. by 'Abd al-Raḥmān Muḥammad 'Uthmān, 2nd ed., (Beirut, 1974), 2:374. Hereafter cited as *Tirmidhī*.

72 *Al-Mizān*, 1:55

73 *Ibid.*, 1:5 and 26.

74 *Ibid.*

75 *Ibid.*, 1:5.

76 *Ibid.*, 1:55.

77 *Ibid.*

78 *Ibid.*

79 *Ibid.*

80 *Ibid.*

81 *Ibid.*, 1:46.

82 *Ibid.*

83 *Ibid.*, 1:43.

84 *Ibid.*, 1:45

85 *Ibid.*

86 *Ibid.*

87 *Ibid.*

88 *Ibid.*

89 *Ibid.*, 1:43.

90 *Ibid.*

91 *Ibid.*

92 *Ibid.*

93 *Ibid.*

94 *Ibid.*

95 *Ibid.*

96 *Ibid.*

97 *Ibid.*

98 *Ibid.*, 1:27

99 This is the plural form of the word "āyah," which literally means, "sign" or "token." [see *al-Qur'ān*, 2:248-9 and 17:12-3]. However, it is used to indicate the *Qur'ānic* verses. see *EIN*, 1:773-4; Bell, Richard, *Introduction to Qur'ān*, (Edinburgh, 1963), pp. 153-4.

100 It is said that it is a synonym of the word *ḥadīth*. While some others maintain that it is more general than the latter. *Tahānawī*, p. 410. Further it is said that *ḥabār* only refers to the sayings of the Prophet and not to his actions. *Ibid.*, p. 65; see also *al-Ta'rifāt*, pp. 101-2.

101 This is the plural of the word *athar*, which literally means, "traces." However, technically it denotes: 1) a Prophetic tradition (*ḥadīth*); or 2) a relic (of the Prophet such as the impression of his feet). see *EIN*, 1:736. According to al-Tahānawī, there is yet another kind of *athar*, which refers to both the sayings and actions of the Prophet. Moreover, it also refers to the actions of the *ṣaḥābah* (i.e.: Prophetic Companions). According to the doctors of *ḥadīth* (*muhaddiths*), it is applied to the *mawqūf ḥadīth* (i.e. a *ḥadīth*, the chain of which stops at one of the *ṣaḥābah* and does not trace to the Prophet) and *maqṭū' ḥadīth* (a *ḥadīth* the chain of which stops at one of the *tābi'īn* (followers of the *ṣaḥābah*) or one who came after him. see *Tahānawī*, p. 1200. Some say that the word *athar* is applied only to the *mawqūf ḥadīth*. While some others maintain that the speech of the *salaf* (i.e.: the pious predecessors) is also called *athar*. *Ibid.*, p. 65. Al-Jurjānī, on the other hand says that *athar* has four meanings: 1) the result (*al-nātiḥah*), 2) the sign (*al-'alāmah*), 3) the narration (*al-ḥabār*) and 4) the rule (*al-ḥukm*). see *Ibid.*; Cf. *al-Ta'rifāt*, p. 7.

102 *Al-Mizān*, 1:27.

103 *Ibid.*

104 *Ibid.*

105 *Ibid.*

106 *Ibid.*

107 *Ibid.*, 1:6

108 It is a term used to denote beginningless beginning. Al-Jurjānī defines it as, *istimrār al-wujūd fī azminah muqaddarah ghayr mutanāhiyah fī jānib al-mādī* (the continuation of the existence in a determined time which is not bounded by the direction of the past). see *al-Ta'rifāt*, pp. 5 and 16]. While 'Abd al-Karīm al-Jillī says that there are two kinds of *azal*: (1) *azal* in relation to God, which is called as *al-azal al-muṭlaq* or as *azal al-āzāl*. God's *azal* is existent even now as it was existent before our existence and He did not incur change from His having beginningless beginning and He continues to have beginningless beginning in the perpetuity of perpetuities (*abad al-ābād*), (2) *azal* in relation to the accidental existence. Each and every accident has an *azal* distinct from another accident. Thus the *azal* of the mineral is other than the *azal* of the organism, because that occurs before it, for the organism does not have existence, except after the existence of the mineral. Therefore, the *azal* of the organism was in the state of existence of the mineral, not that it was before the mineral. And the *azal* of the mineral was in the state of existence of the atom and the *azal* of atom was in the state of existence of matter and the *azal* of the matter was in the state of existence of the speck and the *azal* of the speck was in the state of existence of the humours and the *azal* of the humours was in the state of the existence of the basic elements and the *azal* of the basic elements was the state of existence of the celestial beings such as the Pen, the First Intellect, the angel named the Spirit and the like, and they are the whole of the universe. And their *azal* was the word of the Precinct of God. [see al-Jilī, 'Abd al-Karīm b Ibrāhīm, *al-Insān al-Kāmil fī ma'rifah al-Awākhir wa al-Awā'il*, (Cairo, n.d.), 1:60-1]. Hereafter cited as *Insān*.

109 It is a term used to denote perpetuity. It is defined as, *istimrār al-wujūd fī azminah muqaddarah ghayr mutanāhiyah fī jānib al-mustaqbil* (the continuation of the existence in a determined time which is not bounded by the direction of the future). see *al-Ta'rifāt*, pp. 5 and 16; *Insān*, op.cit., 1:61-2.

110 *Al-Mizān*, 1:6.

111 In defining the term *shaqāwah* which is the *maṣḍar* of the word, the noun agent of which is *shaqī*, al-Hillī says, *hiya ḥuṣūl al-alam wa huwa idrāk al-manāfī wa al-sharr wa uṣūlihimā ilaih ai al-naḥs wa al-badan* [it is the acquiring of pain. It is the realization of the prohibited thing and the bad, reaching them, that is the self and the body]. The reason for the *shaqāwah* is the realization of the prohibition because of prohibition. see al-Hillī, Jamāl al-Dīn Abū Maṣṣūr Ḥasan b Yūsuf b 'Alī b Muṭahhar, *Idāh al-Maqāsid sharḥ ḥikmah 'ayn al-Qawā'id of Dabirān Kātib Qazvinī*, ed by 'Alī

Naqī Monzāwī, (Tehran, 1959), p. 244. Hereafter cited as al-Hillī; Lane, Edward William, *Madd al-Qāmūs: An Arabic - English Lexicon*, (Edinburgh, 1872), Vol. 1 part 4, p. 1582ab, Hereafter cited as Lane. There are four signs of *shaqāwah*: (1) observing passivity in matters of religion (*jumūd al-dīn*), (2) a heart of remorselessness (*qaswah al-qalb*), (3) extreme greediness in pursuit of worldliness (*shiddah al-harṣ fī talab al-dunyā*), and (4) persistence in committing sin (*al-iṣrār 'alā al-dhanb*). see al-Shirāzī, al-Sayyid Ḥasan, *Kalimat al-Rasūl al-A'zam*, (Beirut, 1967), p. 141. Hereafter cited as Shīr.

112 *Sa'adah* is the *maṣdar* of the word, the noun agent of which is *sa'id*. It is defined as, *hiya idrāk al-kamāl wa al-khayr wa wuṣūluhumā ilaihi* [it is the realization of the perfection and the good and reaching them]. The reason for the *sa'adah* is the realization of the propitious because it is propitious. see al-Hillī, *op.cit.*, p. 244; Tahānawī, p. 640. Lane defines it as "prosperity, good fortune, happiness or felicity". He says it is of two kinds: *ukhrāwiyyah* (relating to the world to come) and *dunyāwiyyah* (relating to the present world). The latter is of three kinds: *nafsiyyah* (relating to the soul), *badaniyyah* (relating to the body), and *khārijiyyah* (relating to external circumstances). Lane, *op.cit.*, 1:4 (1362b), s.v. *sa'adah*.

113 Al-Mizān, 1:6.

114 Ibid.

115 Ibid.

116 Ibid.; al-Our'ān, 95:4.

117 Al-Mizān, 1: 6.

118 Ibid.

119 Ibid., 1:6; See Bukhārī, 6:140-2, 8:104, 9:128; Muslim, 4:212; Dāwūd, 4:223; Tirmidhī, 4:445; Mājah, 1:30, 2:725.

120 Al-Mizān, 1 : 7.

121 Ibid.

122 Ibid. See also note no 8.

123 Ibid.

124 Ibid., 1:8.

125 Ibid.

126 Ibid., 1: 7-8.

127 Ibid., 1:8. Refer also to note 16 above.

128 Al-Mizān, 1:3.

129 Ibid.

130 Ibid.

131 Ibid.

132 Ibid.

133 Ibid.

134 Ibid.

135 Ibid.

136 Ibid., 1:2 and 28.

137 Ibid., 1:3.

138 Ibid.

139 Ibid.

140 Ibid.

141 Ibid., 1:4.

142 Ibid., 1:27.

143 Ibid.

144 Ibid.

145 Ibid., 1:4.

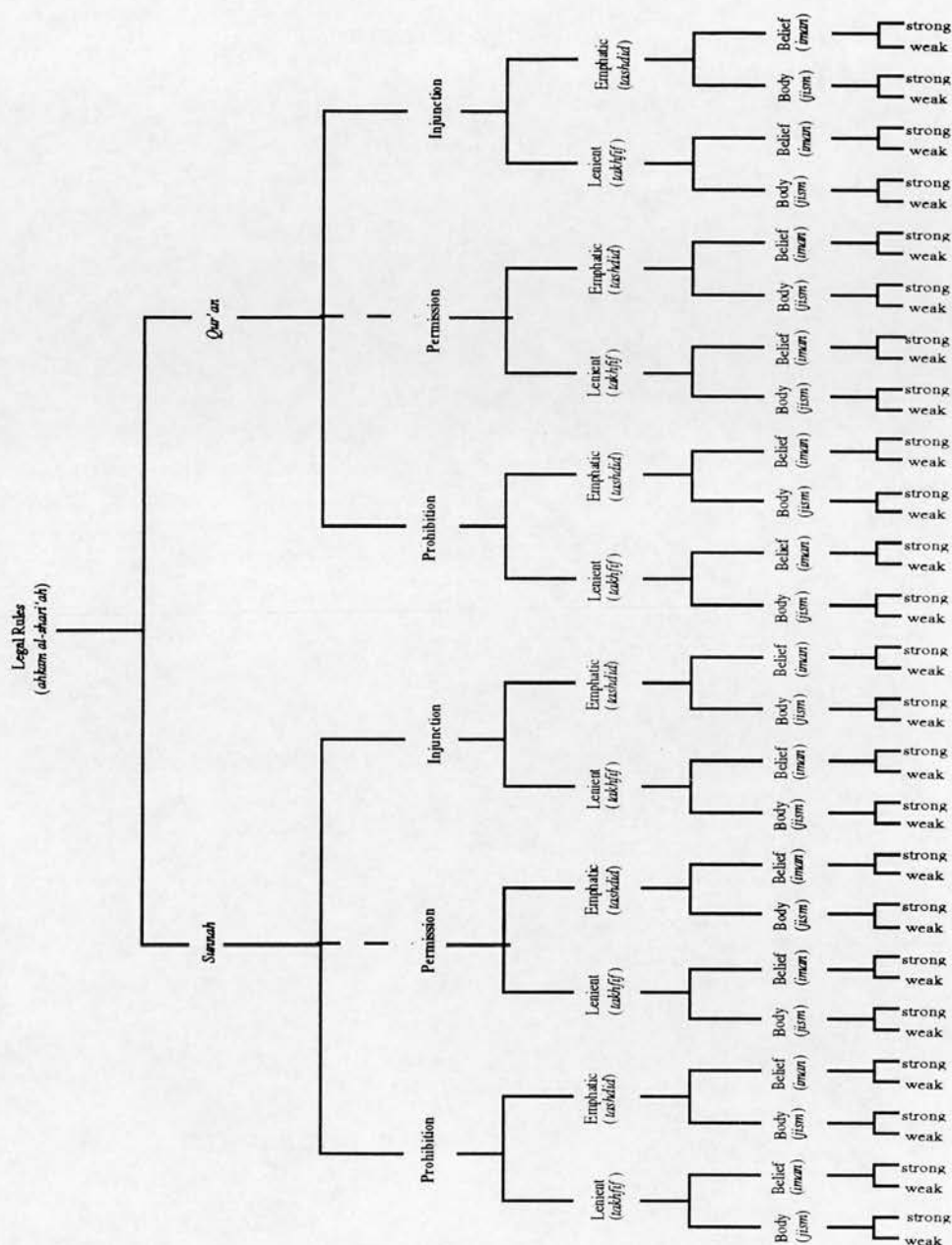
146 Ibid.

147 Ibid.

148 Ibid.

149 Ibid.

150 Ibid., This has been illustrated in the following diagram



151 *Ibid.*

152 *Ibid.*

153 *Ibid.*

154 *Ibid.*

155 *Ibid.*

156 *Ibid.*

157 *Ibid.*; *al-Qu'ān*, 64:16.

158 *Al-Mizān*, 1:5. The full text of the *ḥadīth* is, Usāmah b Zayd narrates from Abū Hurayrah saying that the Messenger of God said to us during the Friday sermon (*Khaṭabanā*), "ayyuhā al-nās qad furida 'alaykum al-ḥajj fa ḥajjū" [O, you people, ḥajj has been made obligatory on you all, therefore, perform ḥajj]. Then a man said: "Is it every year, O, Messenger of God?" But he was silent until the man repeated it a second and a third time. Then the Messenger of God said, "law qultu na'am la wajabat wa lamma istata'tum" [if I were to say "yes", then it becomes obligatory whereas certainly you will not be able to do it], then he (i.e. the Messenger) said, "dharūnī mā taraktukum fa inna mā hulika man kāna qablakum bi kathrati su'ālihim wa ikhtilāfihim 'alā anbiyā'ihim, fa idhā

amartukum bi shay'in fa'tū minhu mā istata'tum, wa idhā nahaytukum 'an shay'in fad'ūhu [leave me with what I have left for you all. For, verily those before you were destroyed due to the abundance in their questions and their opposition to their prophets. Therefore, if I ordered you a thing, do of it what you are able, and if I forbid you from a thing, then abstain from it]. see Mājah, 1:3.

159 Al-Mizān, 1:5.

160 Ibid.

161 Ibid.

162 Ibid. Al-Sha'rānī states about Zakariyyā al-Anṣārī that he saw him after he (i.e.: Zakariyyā) had reached the age of 100 years performing his *nawāfil* (supererogatory *ṣalāt*), in his state of sickness, while standing. He begins to incline to the right and left, as though he was unable to stand without inclining. Al-Sha'rānī told him one day, "People in your state (of health) are not compelled by God to perform the *ṣalāt* while standing, O, my master". To this Zakariyyā replied: "O, my son, the self by its nature is lazy and I am afraid that it might overcome me, thus I complete (the rest of) my life in that". see TS, p. 38.

163 Al-Mizān, 1:36.

164 Ibid.

165 Ibid.

166 Ibid., 1:19 and 34; al-Qur'ān, 2:184. In another verse God says: "Whoever performs a good act voluntarily, then God will indeed be thankful and all knowing". Ibid., 2:158. Commenting on this verse, al-Rāzī says, "the word *shākir* (i.e.: one who is thankful) literally means a manifestation of receiving blessing (*al-maẓhar li al-in'ām*) which in respect of God is absurd. Therefore, the word *shākir* in His respect is used in the metaphorical sense". see Mafātīḥ, *op.cit.*, 4:179.

167 In the *Qur'ān* it is stated that *wa lā tulqū bi aidikum ilā al-tahlukah* [do not throw your hand (i.e.: yourself) to your destruction]. Ibid., 2:195.

168 Al-Mizān, 1:5

169 Ibid. The word *tayammum* refers to the substituted purification through rubbing the hands and the face with sand.

170 Ibid.

171 Ibid.

172 Ibid.

173 i.e.: good manners, or propriety, or decorum. see Wehr, *op.cit.*, p. 9., s.v. *adab*.

174 Al-Mizān, 1:5

175 Ibid.

176 Ibid.

177 Ibid.

178 Ibid.

179 Ibid., 1:29.

180 Ibid.

181 Ibid.

182 Ibid.; al-Qur'ān, 6:152.

183 Al-Mizān, 1:29.

184 see text pp. 281-96.

185 Al-Mizān, 1:25.

186 Ibid.; see also note 8 and 128.

187 Ibid.

188 Ibid.

189 Ibid.; al-Qur'ān, 2:185.

190 Al-Mizān, 1:25; al-Qur'ān, 22:78.

191 Al-Mizān, 1:25; al-Qur'ān, 64:16.

192 Al-Mizān, 1:25; al-Qur'ān, 2:286.

193 Al-Mizān, 1:25; Latā'if, *op.cit.*, p. 193; al-Qur'ān, 2:143.

194 Al-Mizān, 1:25.

195 Ibid.

196 Ibid.

197 Ibid.

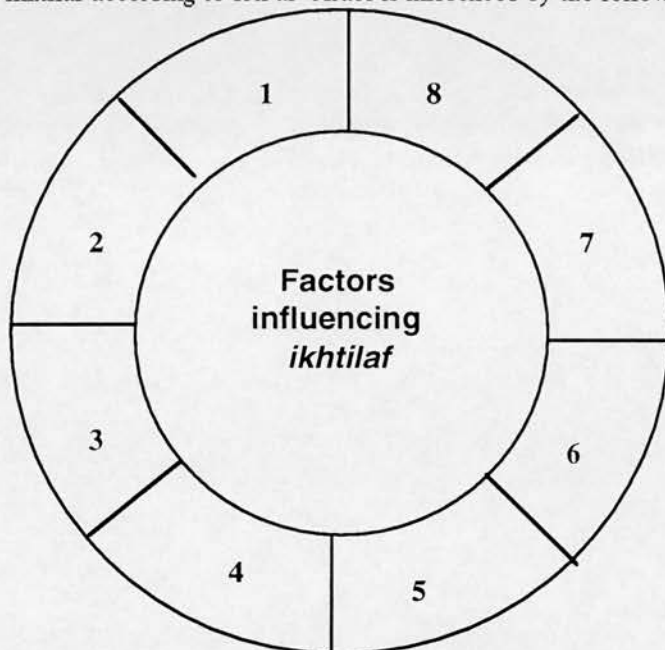
198 Ibid.

199 *Ibid.*

200 *Ibid.*

201 *Ibid.*

202 *Ibid.* Regarding the Qur'ānic verse *wa law shā'a rabbuka la ja'ala al-nāsa ummatan wāḥidatan wa lā yazālūna mukhtalifīna illā man raḥima rabbuka wa lidhālika khalaqahum* [if your Lord had wished, He would certainly have made the mankind into a single community, whereas they will continue to be in the state of differences, except those on whom your Lord has shown mercy, and that is why He created them] *al-Qur'ān*, 11:118-9, al-Shāṭibī says that God created them for the differences. see al-Shāṭibī, Abū Ishāq Ibrāhīm b Mūsā b Muḥammad al-Lakhmī, *al-I'tisām*, (Cairo, 1988), 2:391. This *ikhtilāf* according to Ibn al-'Arabī is influenced by the following factors:



(1) the *sharā'i'* differed due to the differences in the Divine Relation (*al-nasab al-ilāhiyyah*)

(2) the *nasab* differed due to the differences in the states (*aḥwāl*)

(3) the *aḥwāl* differed due to the differences in the durations (*azmān*)

(4) the *azmān* differed due to the differences in the movements (*ḥarakāt*)

(5) the *ḥarakāt* differed due to the differences in the directions (*tawajjuhāt*)

(6) the *tawajjuhāt* differed due to the differences in the aims (*maqāsid*)

(7) the *maqāsid* differed due to the differences in the manifestation (*tajalliyyāt*)

(8) the *tajalliyyāt* differed due to the differences in the *sharā'i'*. see *al-Futūḥāt*, *op.cit.*,

4:185-93. Thus it becomes clear that *ikhtilāf* is essentially a divine action. Therefore, no one can do away the *ikhtilāf*. It is in this sense that the *ḥadīth* "Differences of my *ummah* is a mercy" should be understood. For the definition and the applications of the term *ikhtilāf*, see *Tahānawī*, pp. 441-3.

203 *Al-Mizān*, 1:25.

204 He is Sufyān b Sa'īd b Mashrūq al-Thawrī, Abū 'Abd Allāh al-Kūfī. He was called *amīr al-Mu'minīn fī al-ḥadīth*. Born in the year 97 *hijrī*, died in Baṣrah in 161 *h*. see Maḥmūd, Dr. 'Abd al-Ḥalīm, *Sufyān al-Thawrī: Amīr al-Mu'minīn fī al-Ḥadīth*, (Cairo, 1970); *TKS*, 1:47-50; *Tahdhīb*, 4:111-5; *Wafayāt*, 2:386-91; *Fihrist*, p. 225; *al-Shirāzī*, p. 23; *al-Waraqah*, p. 23; *Ibn Sa'd*, 6:371; *Ma'ārif*, p. 497; *Hilyat*, 6:356; *Tārīkh*, 9:151; *Tadhkirah*, p. 203. see text on p. 363 no. 28.

205 *Al-Mizān*, 1:25.

206 *Ibid.*

207 *Ibid.*

208 *Ibid.*

209 *Ibid.*, 1:28.

210 *Ibid.* Al-Sha'rānī evidently has taken this idea from Ibn al-'Arabī. see *al-Futūḥāt*, *op.cit.*, 4:325-6

211 It is defined as *al-fi'l alladhī farāḍahu Allāh 'alā al-'ibād wa lam yurakkhiṣ lahum fī tarkihī* [the action which God made as obligatory on the servants and He did not make any concession in respect of abstaining from it] or as *al-fi' alladhī alẓama al-Shāri' bi al-ityān bihī* [the action the performance of which the Lawgiver made as necessary]. This is a synonym of *fard*. However, the Hanafites viewed that there is a distinction between *fard* and *wājib*. To them a rule is considered *fard* if it is obligatory in the first degree, that is when there is a clear textual evidence. However, if the evidences are speculative then the obligation derived from such evidence is given a degree below that of the former. This distinction between the *fard* and *wājib* is only in form and not in substance. Explaining this al-Ghazzālī says, "As far as we are concerned, there is no distinction between *fard* and *wājib*; the two terms are synonymous. According to the Hanafis, *fard* is based on definitive authority but *wājib* is found in speculative proof. Once again we do not deny the division of *wājib* into definitive and speculative (*maqtū' wa-maẓnūn*) and there is no objection to the use of different expressions once their meaning is clear. see Kamālī, Mohammad Hashim, *The Principles of Islamic Jurisprudence*, (Cambridge, 1991), p. 325. Hereafter cited as *Kamālī*. It is divisible into many kinds: 1) *wājib 'aynī wa wājib kafā'i* [Personal and Collective Obligation], 2) *wājib ta'yīnī wa wājib takhyīrī* [Specific and Preferential Obligation], 3) *wājib muwaqqat wa wājib ghayr muwaqqat* [Time-limited and Time-limitless Obligation], 4) *wājib al-mutlaq wa wājib al-muqayyad* [Absolute and Restricted Obligation], 5) *wājib ta'abbudī wa wājib tawaṣṣulī* [Ritual and Connective Obligation], 6) *wājib muḥaddad wa wājib ghayr muḥaddad* [Quantified and Unquantified Obligation], and 7) *wājib nafsī wa wājib ghayrī* [Essential and Non-Essential Obligation]. For details see al-Ḥakīm, Muḥammad Taqī, *al-Uṣūl al-'Ammah li al-Fiqh al-Muqārīn*, (Beirut, 1963), pp. 58-62. Hereafter cited as *Hakīm*.

212 It is an expression about the first specification of the Truth in the manifestation of the creation on the basis of distinction. It is the prototype (*namūdha*) which inscribes that which it preordains in the Guarded Tablet. This Pen is the First Intellect. Both are two aspects to the Muḥammadan Spirit. The Prophet said to Jābir, "The first thing God created was the spirit of your Prophet". Thus, the Lofty Pen, the First Intellect and the Muḥammadan Spirit all became an expression about an individual atom (*jawhar fard*). It is, in relation to the Creation, called the Lofty Pen, and in relation to the Absolute Creation, the First Intellect, while through its annexation to the Perfect Man is called the Muḥammadan Spirit. see *Insān*, op.cit., 2:5-6; *Tahānawī*, p. 1223.

213 It denotes a demand of the Lawgiver which asks the *mukallaf* to do something which is, however, not binding on the latter. To comply with the demand earns the *mukallaf* spiritual reward (*thawāb*) but no punishment is inflicted for failure to perform. see *Kamālī*, op.cit., p. 327; *al-Ta'rifāt*, p. 250. It is variously known as *sunnah*, *mustaḥabb* and *nafl*. see *Kamālī*, op.cit., p. 327; *Hakīm*, op.cit., p. 63.

214 It is an expression about a divine light pertaining to the Truth, unveiling in a place of witness (*mashhad*) pertaining to the creature, in which the existent things are imprinted, as an original imprint. [see *Ibid.*; Nicholson, R.A., *Studies in Islamic Mysticism*, (Cambridge, 1921), pp. 111-2]. According to the majority of the people of *shara'* this refers to a body which is above the seven heavens in which all that had happened and will happen is written till the Day of Resurrection. see *Tahānawī*, p. 1291. Describing the *lawḥ*, Ibn 'Abbās says, "It is made of white pearl, the length of which is between the sky and the earth, while its breadth is between the east and the west" [*Ibid.*]. Al-Ghazālī says that the *lawḥ* of God does not resemble the *lawḥ* of the creature, just as the Divine Essence and His attributes do not resemble the essence and the attributes of the creature. [*Ibid.*, p. 1293]. While al-Jurjānī defines it as *al-kitāb al-mubīn wa al-nafs al-kullīyyah* [it is the clear book and the universal self]. The *alwāḥ* (pl. of *lawḥ*) are four kinds: (1) *lawḥ al-qadā'* (the Tablet of Divine Decree) which controls (*al-sā'iqa*) the erasure and confirmation. It is the tablet of the First Intellect, (2) *lawḥ al-qadr* (the Tablet of Divine Power), that is the tablet of the Universal Rational Self (*al-nafs al-nāṭiqah al-kullīyyah*) in which the universals of the First Tablet are detailed and connected with its reasons. It is called the Guarded Tablet, (3) *lawḥ al-nafs al-juz'iyyah al-samāwiyyah* (the Tablet of the Celestial Particular Self) in which all that is in this universe are inscribed by their forms, manners and measures. It is called the earthly heaven (*al-samā' al-dunyā*). It is at the meeting place (*mathābah*) of the image of the universe (*khiyāl al-'ālam*), just as the first one is at the meeting place of its spirit, while the second one is at the meeting place of its heart, (4) *lawḥ al-ḥayūlā* (the Tablet of Matter) which accepts the form in the world of witness (*'ālam al-shahādah*). see *al-Ta'rifāt*, p. 204; *EI*, 3:19-20; *EIN*, 5:698.

215 It is a binding demand of the Lawgiver in respect of abandoning something.... Committing the *ḥarām* is punishable and omitting it is rewardable. It is of two types: (1) *ḥarām li-*

dhātih [that which is forbidden for its own sake] and (2) *harām li-ghayrih*, [that which is forbidden because of something else]. see *Kamālī*, *op.cit.*, p. 329-30; *Hakīm*, *op.cit.*, pp. 63-4.

216 It is the *mazhar al-'azumah* (manifestation of the greatness) and the *makānāt al-tajallī* (the place Divine Manifestation), and the speciality of the Essence. It is called *jism al-ḥadrah* (the body of the Precinct) and its place, but the place is free from the six directions. It is the highest view (*al-manzar al-a'lā*) and the location of radiation (*al-mahall al-azhā*) [see *Insān*, *op.cit.*, 2:4]. Al-Jurjānī defines it as *al-jism al-muḥīt bi jamī' al-ajsām* [the body which encompasses all the bodies]. For details see *al-Ta'rīfāt*, p. 155.

217 It is a demand of the Lawgiver which requires the *mukallaf* to avoid something, but not in strictly prohibited terms. It is also called as *al-nahy al-tanzīhī*. This is the opposite of *mandūb*. see *Kamālī*, *op.cit.*, p. 331; *Hakīm*, *op.cit.*, p. 65.

218 It is an expression about the manifestation of the entire attributes of action. Thus, it is the manifestation of the Divine Power and the location of the authority of the injunction and prohibition. see *Insān*, *op.cit.*, 2:5. While Ibn al-'Arabī defines it as *mawḍi' al-amr wa al-nahy* [the place of the injunction and prohibition]. see *al-Ta'rīfāt*, p. 297. In the opinion of the *ḥukamā'* it is the *falak al-aflāk*, while according to the *ṣūfīs* it is the heart of the Perfect Man. see *Tahānawī*, p. 981.

219 It is defined as communication from the Lawgiver concerning the conduct of the *mukallaf* which gives him the option to do or not to do something. It is of three types: (1) that which does not entail any harm to the individual whether he acts upon it or not, (2) that the commission of which does not harm the individual although it is essentially forbidden and (3) *mubāḥ per se*. see *Kamālī*, *op.cit.*, pp. 333-4; *Hakīm*, *op.cit.*, pp. 65-7.

220 It is the tree at the far end of the heaven, at which ends the knowledge of the earlier people (*awwalīn*) and the later people (*ākharīn*). see *Tahānawī*, p. 728. While al-Jilānī defines it as, "the end of the place which the creature reaches in his journey towards God...There is nothing after it except the place which is specific to the Truth...There is no step for the creature, nor is it possible for the creature to reach that which is after the *sidrah al-muntahā*. This is because there the creatures are grated (*mashūq*), annihilated (*mamḥūq*), disguised (*madmūs*), obliterated (*matmūs*) and annexed to absolute non-existence. There is no existence for the creature in that which is after the *sidrah*. see *Insān*, *op.cit.*, 2:7. However, it is mentioned that only the Messenger of God is able to cross over it. see *Tahānawī*, p. 728. Its root is in the sixth heaven and most parts of it are in the seventh heaven. And it is situated on the right side of the 'arsh. *Ibid.*

221 *Al-Mizān*, 1:28.

222 The word *barzakh* designates anything that constitutes a screen, a barrier, an interval between two things. In verse 23:102, it takes on an eschatological meaning as the "barrier" that arises behind those who die, until the moment when they will be resuscitated (elsewhere it refers to the "barrier between the two seas", 25:55; 55:20). With Suhrawardī, in his Theosophy of the Orient of lights...it designates everything that is material body in general, hence everything that is opaque and imprisons light and light particles. The eschatological meaning is thus transposed to earthly existence itself, in accordance with the Gnostic and Manichaeizing tendency of the book: the material body imprisons the soul, a being of light, until the death that is its resurrection. - Here according to Ibn Zayla's gloss, the *barzakh* designates the *intellectus materialis* ('*aql hayūlānī*). see Corbin, Henry, *Avicenna and the Visionary Recital*, trans. by Willard R. Trask, (London, 1960), p. 324 n1; also see Burckhardt, Titus, "Concerning the 'Barzakh'", in *Studies in Comparative Religion*, 13(1979)I-II: 24-30. Ibn al-'Arabī calls the Prophet as *al-barzakh*, the latter being "(the intermediary stage) between the Godhead and the Phenomenal World - a link between the Eternal and the temporal, the Necessary and the contingent, the Real and the phenomenal, the Active and the passive and so on." see Affifi, A. E., *The Mystical Philosophy of Muḥyid Dīn-ibul 'Arabī*, (Cambridge, 1939), p. 74.

223 *Al-Mizān*, 1:28

224 *Ibid.*

225 *Ibid.*

226 *Ibid.* This is because, the very nature of *mubāḥ* is that it is a mean between the two extremes, due to the silence of the *shārī'* (i.e.: the Prophet) on it and his absolute non-objection to its performance or abstinence or injunction or prohibition. It is for the ordinary people an indulgence (*tanfīs*) from God to them, for their souls could not bear the continued restraints (*tahjīr*). Thus, that was for them a mercy from God. As for the 'arīfs there is no *mubāḥ* for them, since their vision permanently stays under the injunction and prohibition without disentangling even for a twinkling of an eye, due to the knowledge that in every wink there is a portion of share from the 'ubūdiyyah. see al-

Sha'rānī, 'Abd al-Wahhāb, *Kitāb al-Durar al-Manthūrah fī bayān zubad al-'Ulūm al-Mashhūrah*, ed. by Dr. 'Abd al-Ḥamīd Ṣāliḥ Ḥamdān, (Beirut, n.d.), pp. 42-3.

227 *Al-Mizān*, 1:28.

228 This word means master, companion, owner or possessor. see *Wehr*, *op.cit.*, p. 504.

229 *Al-Mizān*, 1:28-9. Cf. also *al-Futūḥāt*, *op.cit.*, 4:326-7. Explaining further Ibn al-'Arabī says, "at the *sidrah* end the souls of the world of *sa'ādah* and at its roots, that is, at *al-zaqqūm* end the souls of the people of wretchedness (*al-shaqā'*). *Ibid.*, p. 326.

230 *Al-Mizān*, 1:36.

231 *Ibid.*, 1:140 and compare it with 2:59.

232 *Ibid.*, 1:170 and 211.

233 *Ibid.*, 2:59.

234 *Ibid.*, 2:157.

235 *Ibid.*, 1:120.

236 *Ibid.*, 1:15.

237 He is Muḥammad b 'Alī b Muḥammad b Aḥmad b 'Abd Allāh al-Ṭā'ī al-Ḥatīmī al-Mursī. Born in Murcia in Andalus. Then moved to Seville (Ishbiliyah). He travelled extensively in the Middle East and settled in Damascus where he died in 1240 A.D. see Landau, Rom, *The Philosophy of Ibn 'Arabī*, (London, 1959), pp. 15-6; also see Austin, R.W.J., *Sufis of Andalusia: The Rūḥ al-Qudus and al-Durrat al-Fākhīrah of Ibn 'Arabī*, (London, 1971).

238 *Ibid.*, 1:4.

239 *Ibid.*

240 *Ibid.* Cf also notes 8, 128 and 196 above.

241 *Ibid.*

242 *Ibid.*

243 *Ibid.* This indicates that even hypocrisy is divided into gradations: (1) *al-nifāq al-akbar* and (2) *al-nifāq al-aṣghar*. It is narrated by Maḥmūd b Labīd that the Messenger of God said: "The thing which I fear most from my *ummah* is the lesser *shirk*". They asked: "What is lesser *shirk*, O, Messenger of God...?" He replied: "Hypocrisy. God says if He were to reward people for their action go to those whom you used to see in the world and see whether you find in them any reward". [see al-Mundharī, Ḥāfiẓ Zakī al-Dīn 'Abd al-'Azīm b 'Abd al-Qawī, *Targhib wa al-Tarhib*, ed. by Muṣṭafā Muḥammad 'Ammārah, (Cairo, n.d.), 1:58].

244 *Al-Mizān*, 1:4; *al-Qur'ān*, 5:41. In another verse the *Qur'ān* says: "They say with their lips what is not in their hearts, whereas God is more knowledgeable of what they conceal. *Ibid.*, 3:167.

245 *Al-Mizān*, 1:4.

246 *Ibid.*

247 *Ibid.*

248 *Ibid.*, 1:8.

249 *Ibid.*

250 It is defined as, "an expression about inculcating valuable and precious etiquette. For, in its inculcation there is protection from the slips of nature and the way to get rid of them. see *al-Ta'rifāt*, p. 119. Ibn al-'Arabī defines it as "(the act of) surmounting (*tadhīl*) the most difficult task". Thus, whoever surmounts a difficult task is said to have subdued (*rāḍa*) it. It will not be attained except through difficult (self) impositions or a lot of defiances... The young foal (for instance) is tamed because of its defiance and ignorance about the (purpose) for which it was created. It was created for subjugation, riding and conveyance. However, the young foal declined that, because, it did not understand it. Therefore, it is tamed till it submits to the *a'nah* of the Divine rule. Likewise, it is the subjugation of the souls (*riyāḍat al-nufūs*). If it was not for the defiance in it, its master did not have to subdue it. For the human souls, when God created them according to the Divine form, displayed arrogance against those things in the entire universe which do not have this reality. Thus, they were veiled from the Divine realities to which the realities of the universe relies. Therefore, it earned (for itself) the *riyāḍah* due to this defiance, thereby was subdued under its control... Therefore, *riyāḍah* is the absolute disassociation from the inclinations of the self without any restriction. Then the *riyāḍah* in the usage of the *ṣūfī* community is concerned with the spiritual status (*aḥwāl*). There are two types of *riyāḍah*: (1) *riyāḍat al-adab*, and (2) *riyāḍat al-talab*. *Riyāḍat al-adab*, according to the *ṣūfīs* is the disassociation from the natural inclinations of the self. While *riyāḍat al-talab* refers to the validity of the intention in the search. [see al-Ghurāb, Maḥmūd Maḥmūd, *al-Tarīq ilā Allāh ta'ālā: al-Shaykh wa al-Murīd min Kalām al-Shaykh al-Akbar Muḥyī al-Dīn Ibn al-'Arabī*, (Damascus,

1987), pp. 63-5]. Hereafter cited as *al-Tarīq*. In sum Ibn al-'Arabī defines *riyāḍah* as *tahdhīb al-akhlāq* (cultivation of morals). see *al-Ta'rifāt*, p. 290.

251 *Al-Mizān*, 1:8.

252 *Ibid.*

253 *Ibid.*

254 *Ibid.*

255 *Ibid.*

256 *Ibid.*

257 *Ibid.*

258 *Ibid.*

259 *Ibid.*

260 It is defined as "a power originated in the nerve spreading out in the tongue by which the tastes are grasped through the mixture of dampness of saliva in the mouth with the tastes and its reaching the nerve". In the gnosis of God it is "an expression about the light of knowledge which the Truth casts, through His manifestation, into the hearts of His friends by which they differentiate between the truth and the false without taking that from any book or anything else. see *al-Ta'rifāt*, p.112; *Tahānawī*, p. 513-4. According to Ibn al-'Arabī, *al-dhawq* is the first rubric of divine manifestation. *Ibid.*, p. 288. It varies with the variation of the Divine manifestation; that is, if the manifestation was in respect of form, then the *dhawq* will be *khiyālī* (Conceptual), whereas if it was in respect of the Names of Divine and Universe, then that *dhawq* will be *'aqlī* (Intellectual). The influence of *al-dhawq al-khiyālī* is on the self, while the influence of *al-dhawq al-'aqlī* is on the heart. The rule of the *al-dhawq al-khiyālī* is applied on the bodily struggle (*al-mujāhadāt al-bāṭiniyyah*) such as hunger, thirst, night prayers, recitation of the *Qur'ān*, recitation of *dhikr*, acting according to the injunctions and abstaining from prohibitions, and to struggle in the path of God. The rule of *al-dhawq al-'aqlī* is applied to suppressing the self (*riyāḍah al-naḥsiyyah*) and to the cultivation of morals. see *al-Tarīq*, *op.cit.*, pp. 65-6. While others define it as "the first stage of witnessing the Truth by the Truth". *Tahānawī*, p. 514.

261 *Al-Mizān*, 1:20.

262 *Ibid.*; *Latā'if*, *op.cit.*, p. 85.

263 *Al-Mizān*, 1:20.

264 *Ibid.*, 1:21.

265 *Ibid.*

266 i.e.: a food which lawful. This legality of the food also include the manner in which such food is attained. That is whether the food is from a lawful source or not.

267 *Al-Mizān*, 1:21.

268 i.e.: the food wherein there is doubt.

269 *Al-Mizān*, 1:21.

270 *Ibid.*

271 He is al-Malik al-Ashraf Saif al-Dīn al-Ghawrī Qānṣūh, of al-Gūr division of the Mamlūks from Afghānistān. He served for a long time as a *khaṣṣkī* (Lifeguard) and *jāmaār*. He became the governor of the province of al-Baḥriyah when he was about 40. Then in his 60th year he became the *ṣultān*. However, the chroniclers number him among the bad *sultāns*. see *EI*, 2:720-1; *al-Badr*, *op.cit.*, 2:45-5; Petry, Carl F., *Twilight of Majesty: The Reigns of Mamlūk Sultans al-Ashraf Qaytbāy and Qānṣūh al-Ghawrī in Egypt*, (New Jersey, 1993).

272 *Al-Mizān*, 1:20-1; *Latā'if*, *op.cit.*, p. 86.

273 *Al-Mizān*, 1:20.

274 *Ibid.*

275 He is Ibrāhīm b Adham b Maṣṣūr al-'Ajli, Abū Ishāq al-Balkhī. Died in 162 h. see *Tahdhīb*, 1:102-3; *TKS*, 1:69-70; *Latā'if*, *op.cit.*, p. 94n1; *Arberry*, *op.cit.*, pp. 62-80; *Shadharāt*, 1:255-6; For details see Maḥmūd, Dr. 'Abd al-Ḥalīm, *Ibrāhīm b Adham: Shaykh al-Ṣūfiyyah*, (Cairo, 1972). see text on p. 363 no. 34.

276 *Al-Mizān*, 1:20.

277 *Ibid.*

278 *Ibid.*, 1:21

279 *Ibid.*

280 *Ibid.*

281 Ibid.

282 Ibid.

283 Ibid.

284 Ibid.

285 Ibid.

286 Ibid.

287 Ibid.

288 Ibid.

289 Ibid.

290 Ibid.

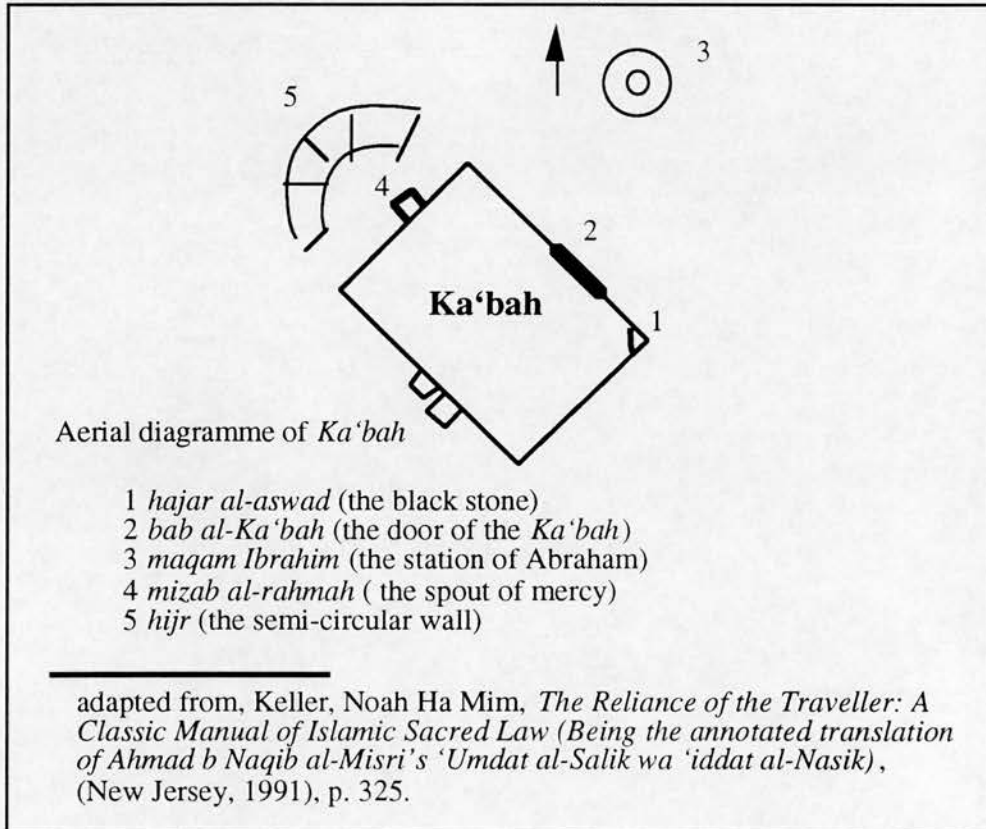
291 Ibid.

292 Ibid. Al-Sha'rānī, however, contradicts this in another place where he says that he ascertained the truth that the *sharī'ah* came in two sides of the balance of *takhfīf* and *tashdīd* in the year 933 *hijrī*. That is about 14 years earlier. Ibid., 1:27. Perhaps, the best way to reconcile this difference is by saying that the author of the book took 14 full years to probe into the evidences of this truth.

293 see diagram below, marked 4.

294 Ibid., marked 5.

295 It is the House of God situated at Makkah. see diagram below.



296 Al-Mizān, 1:21

297 Ibid.

298 It is an expression on the cultivation of character by which one is able to attain the proximity to God. That is a servant purifying himself from the blameworthy qualities such as loving the world, jealousy, pride, miserliness, lies, backbiting, tyranny and so on, while acquiring the praiseworthy qualities like knowledge, shame, pleasure, justice and so on. see Tahānawī, p. 686.

299 Al-Mizān, 1:75

300 Ibid.

301 Ibid., 1:76.

302 *Ibid.*, 1:77.

303 *Ibid.*, 1:79.

304 *Ibid.*

305 i.e.: philology.

306 *Ibid.*, 1:23.

307 *Ibid.*

308 *Ibid.*

309 *Ibid.*

310 *Ibid.*

311 i.e.: Collective Obligation.

312 i.e.: Individual Obligation.

313 *Al-Mizān*, 1:23.

314 *Ibid.*

315 *Ibid.*

316 *Ibid.*, 1:47.

317 *Ibid.*

318 *Ibid.*, 1:3.

319 *Ibid.*

320 *Ibid.*, 1: 25 .

321 *Ibid.*, 1:3.

322 *Ibid.*, 1:38.

323 He is al-Rabī' b Sulaymān b Dāwūd al-Jizī, Abū Muḥammad al-Azdī. Born in 180 h. He studied under al-Shāfi'ī. Scholars like Abū Dāwūd, Nisā'ī, and Ṭahāwī studied under him. Died in 256 h. see *Tahdhīb*, 3:245. see text on p. 365 no. 55.

324 *Al-Mizān*, 1:38.

325 *Ibid.* Compare it with p. 60, where he is quoted as saying: "to act according to the principles is of the actions of people of intellect, and it is needless to say "why" nor "how" in respect of anything from the principles".

326 *Ibid.*, 1:38

327 *Ibid.*, 1:9; *al-Qur'ān*, 62:4.

328 *Al-Mizān*, 1:38. He is Abū Ja'far Muḥammad b Jarīr b Khālid al-Ṭabarī, born in Āmul in 214 h. and died in 327 h. in Baghdād. see *Wafayāt*, 4:191-2; *Tārīkh*, 2:162; *Yāqūt*, 18:40; *Tadhkirah*, p. 710; *Ibn al-Subkī*, 2:135; *Shadharāt*, 2:260. see text on p. 366 no. 65.

329 *Al-Mizān*, 1:38.

330 *Ibid.*, 1:20. A *murīd* is one who is detached (*mutajarrīd*) from his will. Al-Ghazālī says: *huwa alladhī ṣaḥḥa lahu al-asmā' wa dakhala fī jumlati al-mutawaṣṣilūn ila Allāh bi al-ism* [he is the one to whom the names are proper (i.e.: he is rightfully qualified to be attributed with the names) and he becomes part of those who attain the proximity to God through the name]. see *al-Ta'rifāt*, p. 284. However, Ibn al-'Arabī defines him as one who dedicates oneself to God with respect to attention and meditation while detaching (himself) from his will, when he came to know that nothing will come into existence except that which God, the Lofty, wills and not according to what others desire of him. Thus, he eliminates his will to such an extent that he does not will except what the Truth wills. *Ibid.*, p. 221.

331 *Al-Mizān*, 1:20.

332 *Ibid.*, 1:24.

333 *Ibid.*

334 *Ibid.*

335 *Ibid.*

336 *Ibid.*

337 *Ibid.*, 1:25.

338 *Ibid.*

339 Al-Jurjānī defines it as *al-'ilm bi ḥaqīqatihī ba'da al-naẓr wa al-istidlāl* [it is knowledge as in its reality after speculation and inference. see *al-Ta'rifāt*, p. 41.

340 *Al-Mizān*, 1:25.

341 *Ibid.*

342 *Ibid.*

343 *Ibid.*

344 *Al-Mizān*, 1:20.

345 It is defined as, *istidāmat 'ilm al-'abd bi ittīlā' al-rabb 'alaihi fī jamī' aḥwālihi* [the continuance of the knowledge of the servant with the cognisance of God on him in all his conditions]. see *al-Ta'rifāt*, p. 223.

346 *Al-Mizān*, 1:21.

347 The word *taqlīd* is defined as *'ibārah 'an qubūl qawl li al-ghayr bilā ḥujjah wa lā dalīl* [an expression about accepting the statement of others without a proof nor an evidence]. see *al-Ta'rifāt*, p. 67.

348 *Al-Mizān*, 1:21.

349 *Ibid.*

350 *Ibid.*, 1:30.

351 *Ibid.*

352 *Ibid.*

353 *Ibid.*

354 *Ibid.* This term refers to "the station of the pole of the poles, which is the inner self (*bātin*) of Muḥammad. Therefore, it will not be for anyone other than his heir, due to his perfection. As such the seal of the sainthood and the pole of the poles are within the seal of the prophethood". see al-Kamshakhānawī, Aḥmad, *Kitāb jāmi' al-'Usūl fī awliyā' wa anwā'ihim wa awṣāfihi wa uṣūl kullu tariqin wa muḥimmāt al-Murīd wa shurūṭ al-Shaykh wa kalimāt al-Ṣūfiyah wa iṣtilāhihi wa anwā' al-Taṣawwuf wa maqāmātihim* (Cairo, n.d.), p. 66.

355 *Al-Mizān*, 1:22.

356 *Ibid.*

357 It is the famous book of Ibn al-'Arabī entitled [*Risālah*] *al-Futūḥāt al-Makkīyah* [*fī ma'rifah al-Asrār al-Mālikīyah wa al-Mulkiyah*]. see *GAL*, 1:572; *GALS*, 1:792; *Kahhālāh*, 11:40.

358 *al-Mizān*, 1:31. It is said that Noah lived for approximately 1000 years. [see his biography in Ibn Kathīr, Abū al-Fidā Ismā'il, *Qīṣaṣ al-Anbiyā'*, ed. by Muḥammad 'Alī Quṭb, (Cairo, 1993), pp. 74-109; al-Najjār, 'Abd al-Wahhāb, *Qīṣaṣ al-Anbiyā'*, (Beirut, n.d.), pp. 30-48].

359 *Al-Mizān*, 1:31.

360 *Ibid.*

361 *Ibid.*

362 *Ibid.*, 1:12.

363 This term is used to denote Satan or devil. This is derived from *balas* meaning "a wicked or profligate person. It is used as synonym to Satan. However, there is a slight difference between them. That is, the term Satan denotes one who is far from the truth, while *Iblīs* is one who is without hope. see *Hughes*, p. 84.

364 *Al-Mizān*, 1:12.

365 It is referred to Proofs based on traditional sources such as *Qur'ān* and *ḥadīth* and is used as antonym of *aqlī dalīl* (Intellectual Proof).

366 *Al-Mizān*, 1:12.

367 *Ibid.*

368 *Ibid.*

369 *Ibid.*, 1:31.

370 *Ibid.*, 1:11.

371 *Ibid.*

372 *Ibid.*

373 *Ibid.*

374 *Ibid.*

375 *Ibid.*

376 i.e.: Rhetoric. This field also covers *'ilm al-bayān* and *'ilm al-badī'*.

377 *Ibid.*

378 *Ibid.*, 1:10-1.

379 *Ibid.*

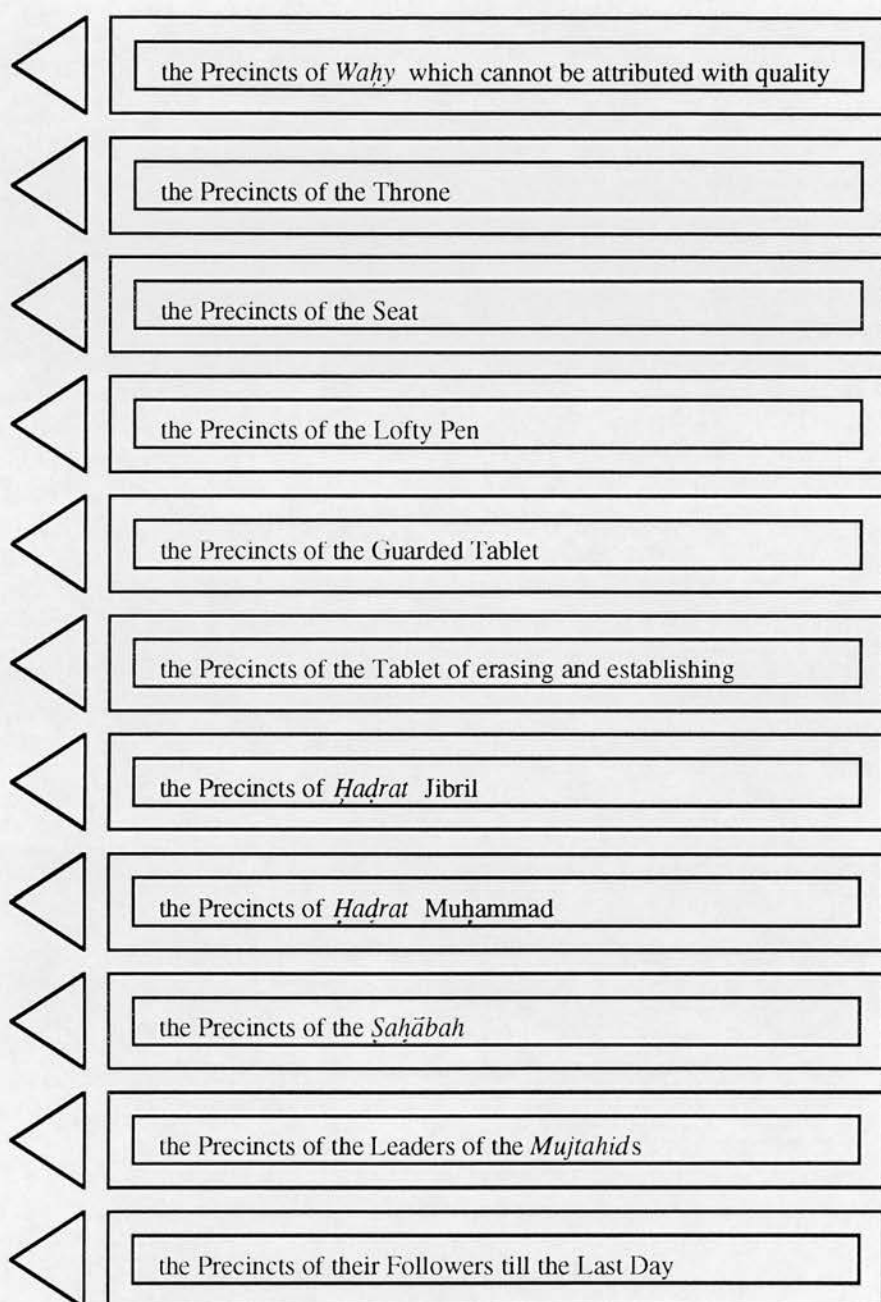
380 *Ibid.*

381 *Ibid.*

CHAPTER TWO

An Analysis of the Structure, Style and Approach of *al-Mīzān*.

The book consists of a lengthy introduction in which the author states the purpose and the foundations on which the balance (*al-Mīzān*) which he is proposing is erected, by quoting relevant *Qur'ānic* verses and Prophetic *aḥādīth* in support of his theory. This introduction is followed by sections of hypothetical questions and their answers. There are twenty-nine sections. Each section consists of a number of sub-questions and their answers. In this way, al-Sha'rānī tries to expound his stand on the fundamentals of *Islāmic* Jurisprudence and lays the base for his balance, providing tangible examples through illustrated diagrams depicting the essential oneness and the unity of legal thought and its Divine origin. He explains that he will put forward some sections of his work which will be helpful in explaining the more obscure elements in his analysis of his theory of the balance.¹ The diagrams form part of this explanation and are, according to him, "like the hallway through which one could reach the centre of the house."² In trying to explain how all the *madhāhib* branch out (*tafrī'*) from one and the same spring (*'ayn*) of the greater *sharī'ah*, al-Sha'rānī spells out the Divine origin of the *sharī'ah*. He argues that the *sharī'ah* emanates from "the Presence of Divine Revelation"³ and passes through various stages till the Last Day,⁴ as shown in the following diagram.⁵

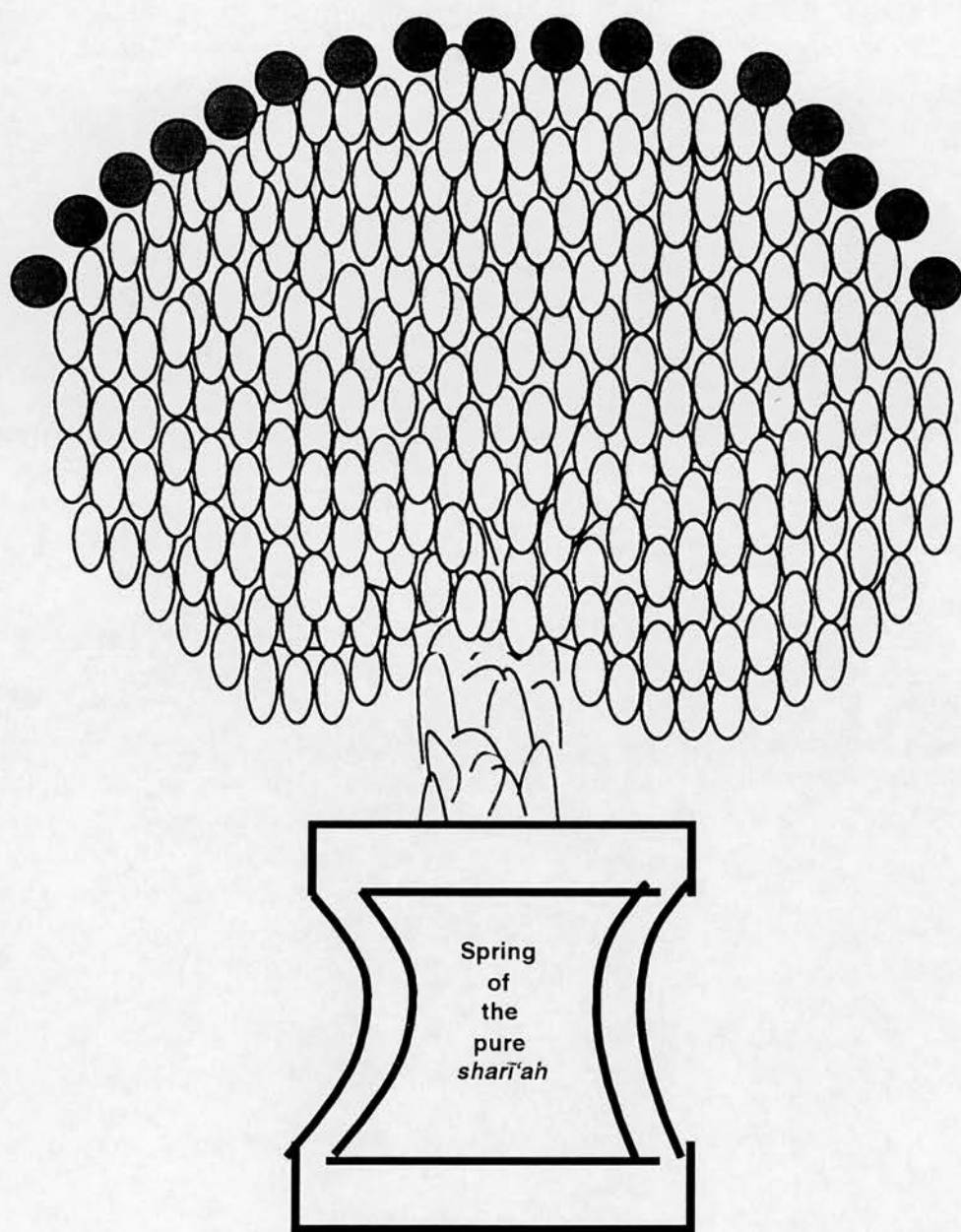


These stages are connected to one another.⁶ Thus, the *muqallids* by their mere adherence to any one of the *a'immaḥ* have, indeed, acted according to the Divine commands.⁷ By this illustration, al-Sha'rānī tries to prove that all the opinions of the *a'immaḥ* are well within the ambit of the *sharī'ah*, and whatever the *mujtahids* deduce from the *naṣṣ*,⁸ from time to

time, will become an integral part of the *sharī'ah*, owing to their connection with the Presence of Divine Revelation. For, it is He Who inspires and guides the *mujtahids* to ponder over the *sharī'ah*, as has been indicated in the *ḥadīth*:

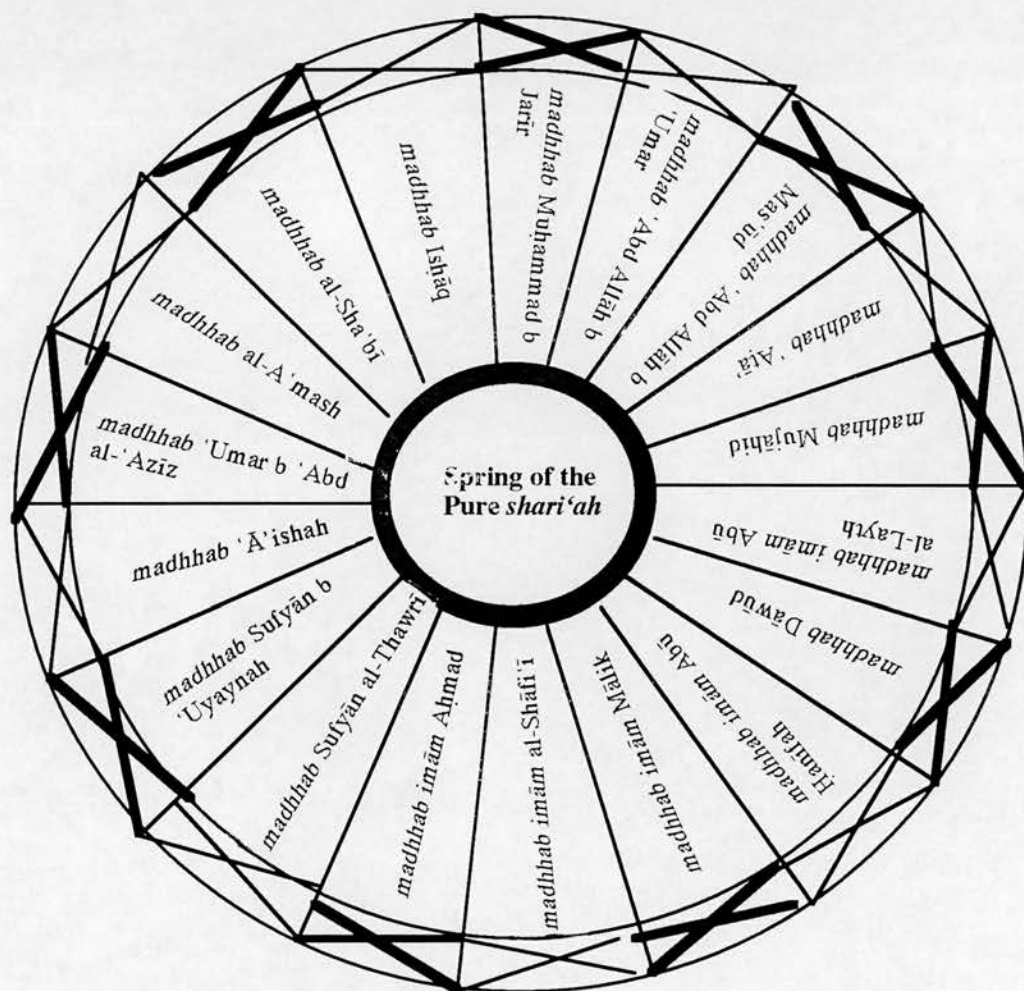
On whoever God intends good He will make him ponder over the religion.⁹

Since pondering over the religion is considered a good omen from God, then how could He reveal something contravening the spirit of His *sharī'ah*? Thus, whatever they opine is to be taken as commands of the *shārī'* (i.e.: the Prophet) by the mere fact that they are "the trustees (*umanā'*) of the Messengers, as such no Messenger would entrust his *sharī'ah* to an untrustworthy person."¹⁰ Therefore, the *mukallafs* should act according to the opinions of the *a'immaḥ*, for the latter only interpret the *sharī'ah* in the language of the people in order that they could understand and abide by it. Thus, their mission was just that of translating and expounding the original message rather than innovating something beyond the domain of the *sharī'ah*. Al-Sha'rānī tries to prove this through the examples of the tree (*shajarah*), the circles, the netting (*shabakah*), and the sea. For example, through the diagram of the tree, (see diagram below),¹¹ al-Sha'rānī establishes the essential link between the "spring of the *sharī'ah* and its fruit."¹²



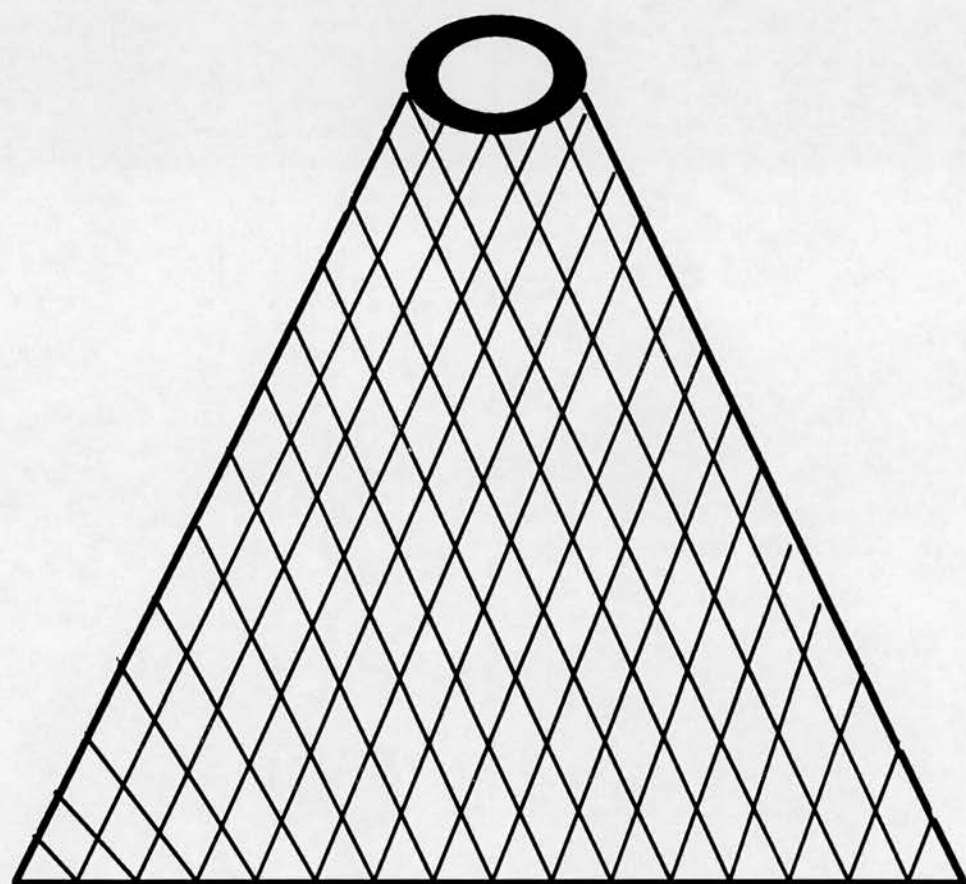
That is, according to the author, "the big branches are the example of the opinions of the *a'imma*h of the *madhāhib*, while the smaller branches are like the opinions of the great personalities among the *muqallids*, and the boughs branching out from the side of the branches are like the opinions of the disciples of these *muqallids*, while the red dots which are on the top of the smaller boughs are like the issues that come out from the opinions of the '*ulamā*' in every period."¹³ Thus, all the opinions of the *a'imma*h and their *muqallids* are contained in the *shari'ah* and whatever they opine

is only an explanation and expansion of the same principles, so as to facilitate the understanding of the otherwise ambiguous, if not concise, injunctions and prohibitions. And in the example of the circle (see diagram below),¹⁴



al-Sha'rānī illustrates the "connection of all the *madhāhib* of the *mujtahids* with the spring of the pure *sharī'ah*,"¹⁵ from which "branches out every opinion of the *mujtahids* and their followers till the Day of Judgement."¹⁶ These are "like the path leading to the central spring on all sides."¹⁷ Thus, according to the author, this proves to one who ponders over what he

explains that, "there is no *madhhab* better in *sharī'ah* than (another) *madhhab*, because all of them return to one (and the same) spring."¹⁸ This point is further elaborated by al-Sha'rānī in the diagram of the net of the hunter (see diagram below).¹⁹



In this, the author, tries to "establish the connection of every mesh with the first mesh in every stage."²⁰ Thus, the "first mesh is comparable to the spring of the *sharī'ah*"²¹ and that which branches out from it is compared to "the connection of all opinions of the '*ulamā*' of the *sharī'ah* with the spring of the *sharī'ah*."²² By this one could see that there is "no opinion which is considered not to have originated from the spring of the *sharī'ah*."²³ Therefore, whoever clings to any mesh will be able to "reach the first mesh"²⁴ and thus he will see that "all the opinions are equal in validity."²⁵ Then, al-Sha'rānī attempts to prove the form of connection of

the *madhāhib* of the *mujtahids* and the opinions of their followers towards the Book and the *sunnah* through the following "apparent chains of transmission:"²⁶

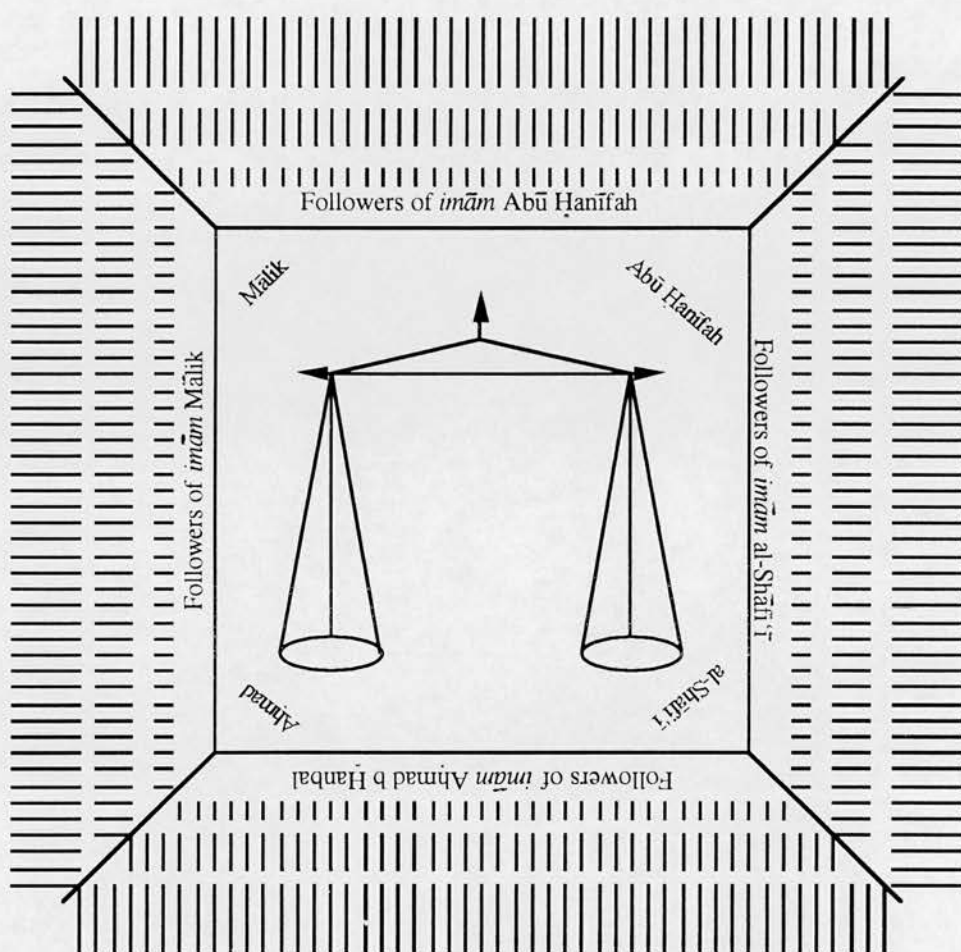
(1) Abū Ḥanīfah²⁷ (quoting) 'Aṭā'²⁸ from Ibn 'Abbās²⁹ (quoting) the Messenger of God from Gabriel from God.

(2) Mālik³⁰ (quoting) Nāfi'³¹ from Ibn 'Umar³² (quoting) the Messenger of God from Gabriel from God.

(3) al-Shāfi'ī (quoting) Mālik from Nāfi' from Ibn 'Umar (quoting) the Messenger of God from Gabriel from God³³.

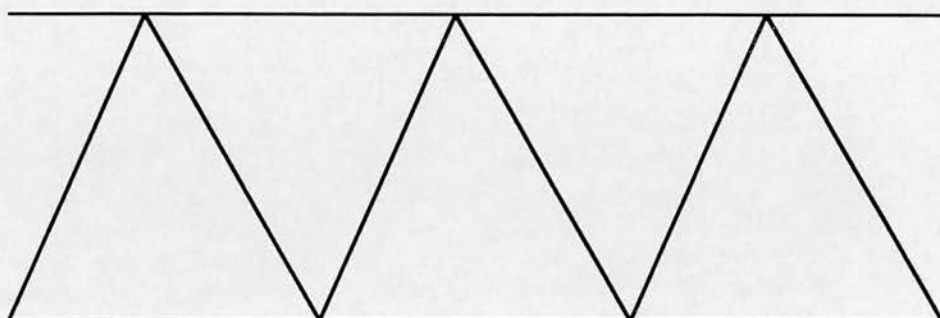
(4) Aḥmad b Ḥanbal (quoting) al-Shāfi'ī from Mālik from Nāfi' from Ibn 'Umar (quoting) the Messenger of God from Gabriel from God.

Al-Sha'rānī goes on to explain by way of a diagram (see below)³⁴ that "all the leaders of the *mujtahids* do intercede in respect of their followers"³⁵ (on the Day of Judgement) and do take care of them (i.e.: the followers) in all their difficulties in their worldly life (*dunyā*), the intermediary life (i.e.: the *barzakh* - the grave), and the Day of Resurrection (*yawm al-qiyāmah*).³⁶



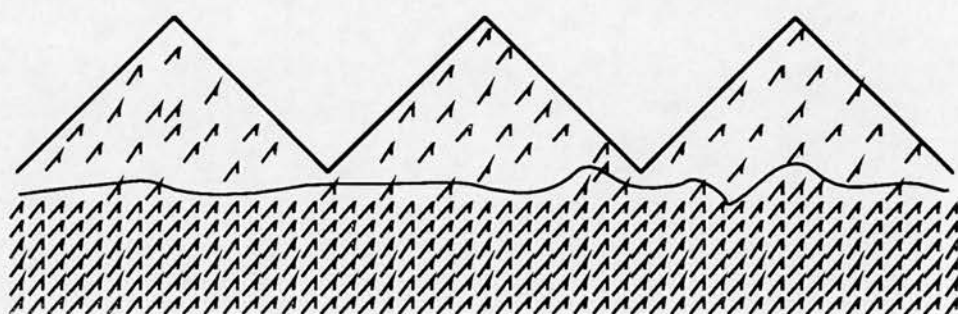
Another diagram³⁷ shows how the *a'imma* will enable them to cross over the Path (*ṣirāt*),³⁸ which divides Heaven from Hell.³⁹ This *ṣirāt*, according to al-Sha'rānī, "in reality is only one in itself."⁴⁰ However, "it gives form to one who ascends it through the form of his knowledge and action."⁴¹ He illustrates the form of the *ṣirāt* of those "who stood straight on the *sharī'ah* in the abode of earth"⁴² as under:

[The Bridge that is straight]

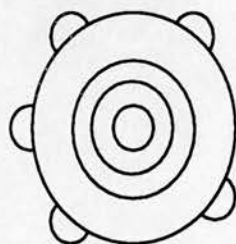
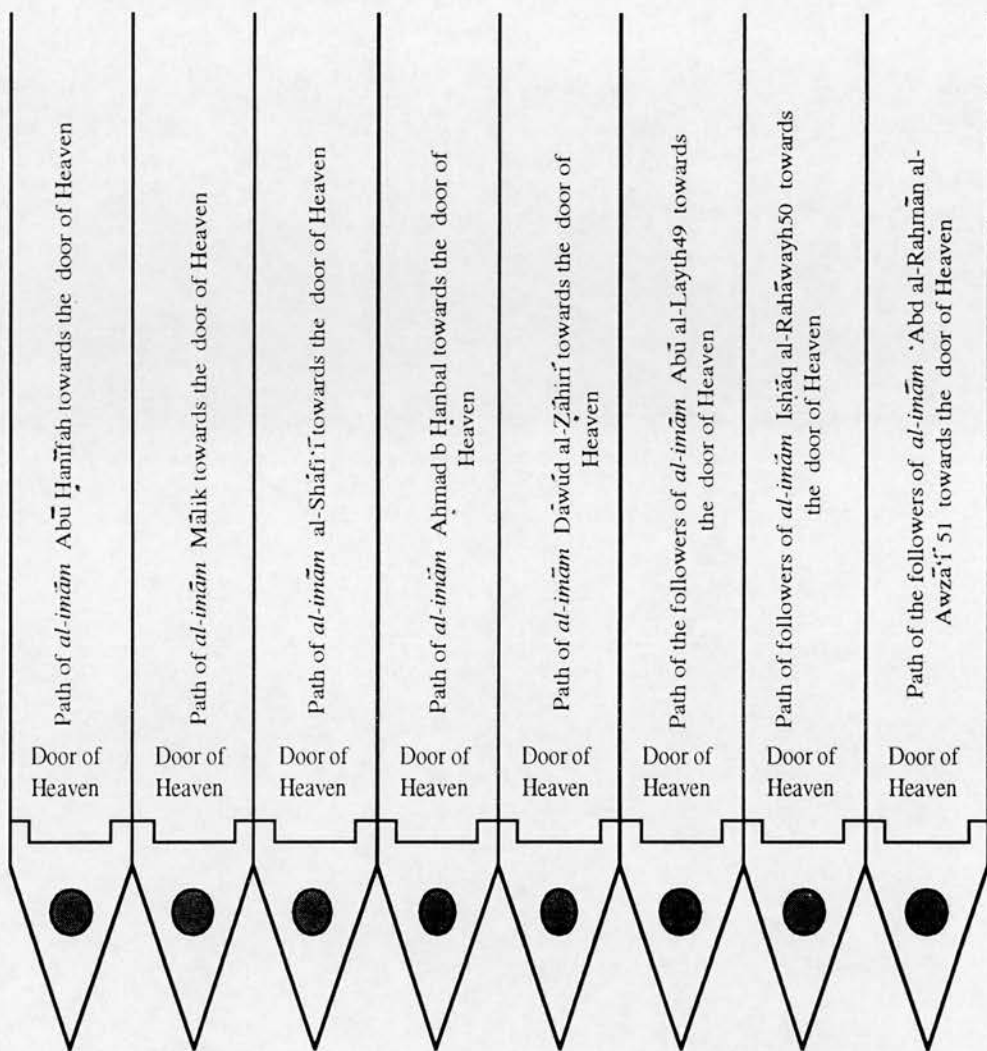


This is the position (*mawqif*) of the *a'imma* of the *mujtahids*, "who keep an eye on their followers on the *ṣirāt* so that they arrive at heaven without falling into the fire."⁴³ On the other hand, the *ṣirāt* of "one who deviated from the *sharī'ah* in this world"⁴⁴ has been illustrated by al-Sha'rānī as follows:⁴⁵

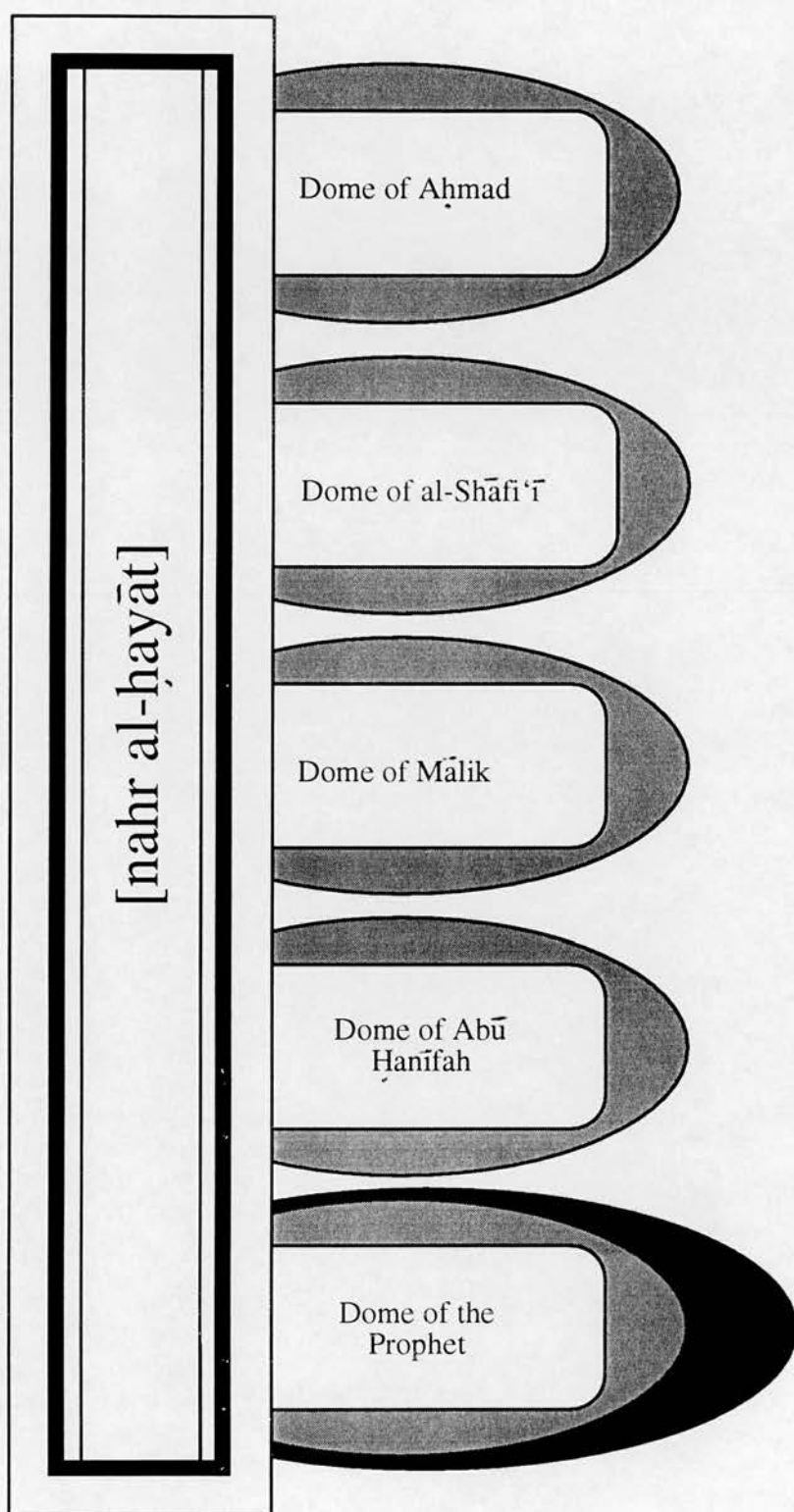
[The Bridge that is crooked]



Thus, "whoever slips from the *sharī'ah* here (will find) his foot slipping there according to the measure of what he had slipped here (in the world)."⁴⁶ He uses yet another diagram (see below)⁴⁷ to explain how all those *madhāhib* which a *muqallid* followed and in accordance with whose teaching he acted with sincerity will definitely enable him reach the Door of the Heaven (*bāb al-jannah*).⁴⁸



He gives a further diagram (see below)⁵² to illustrate the proximity of the domes of the *a'imma* on the River of Life (*nahr al-ḥayāt*)⁵³ in Heaven which is the place of the manifestation of the sea of pure *sharī'ah* in this world, to the dome of the Messenger of God.⁵⁴



By this al-Shaʿrānī tries to show that "they attain this status by adhering to the *sharīʿah* of the Prophet."⁵⁵ And from this position they will witness

"the essence of the Prophet."⁵⁶ One might wonder why none of the Prophetic companions were included in this arrangement. To this the author says:

We have limited ourselves to the domes of the four *a'imma* because they were the ones, whose *madhāhib* have continued to this period of ours. They were the representatives of the Messenger of God in respect of guiding his *ummah* towards his *sharī'ah*, as though he (the Prophet) does not die till the Day of judgement. Therefore, because of this we made their domes by his side. As such they will not leave him (the Prophet) neither in the world nor in the Hereafter. I have not drawn these domes according to my intellect (*'aqlī*), instead I have drawn it in the form of what I saw in Heaven in some occasions.⁵⁷

This is followed by five sections⁵⁸ concerning the opinions of the *a'imma* of the *mujtahids*, in which he defends them from the accusation of making statements about religious matters on the basis of personal opinions (*ra'y*). These include the stand of the *shārī'* (i.e.: the Prophet), his *ṣaḥābah*,⁵⁹ *tābi'īn*,⁶⁰ *tabi' al-tābi'īn*,⁶¹ Abū Ḥanīfah, Mālik, al-Shāfi'ī and Aḥmad b Ḥanbal. It seems that al-Sha'rānī by including these sections, is trying to show how the *a'imma* of the *mujtahids* have exercised caution in issuing statements pertaining to religion, more particularly Abū Ḥanīfah, for he had been accused by some people of preferring *qiyās* to *ḥadīth*.⁶² Thus, in an attempt to clear what he views as a misconception about Abū Ḥanīfah and his *madhhab*, al-Sha'rānī has devoted several sections⁶³ exclusively to Abū Ḥanīfah, in order to explain his status among the scholarly circles,⁶⁴ the position of his *madhhab*⁶⁵ and the respect he merited from the '*ulamā'*.⁶⁶ Thus, al-Sha'rānī attempts to show the lofty position of Abū Ḥanīfah. In this regard he states:

Know, O, my brother, I am not answering about the *Imām*, in these sections, from my heart and good intention alone as do some of them, whereas, I answer about him only after searching and examining in the books of evidences.⁶⁷

He goes on to list the books he had read, commented on and committed to memory before presenting his balance⁶⁸ and he urges others to read these works before "hurrying to criticize any of the *a'imma*h."⁶⁹

The section that follows this is on his attempt to reconcile seemingly contradictory *aḥādīth*. Here he follows the chapterization of the *aḥādīth* according to the chapters of *fiqh*. Thus he begins by reconciling the contradictory *aḥādīth* in the section on Ritual Purity,⁷⁰ and follows by:

- section in respect of the example of the two sides of the balance from the *akhbār* and *āthār* from the Chapter of *ṣalāt* to *zakāt*.⁷¹

- section in respect of the example of the two sides of the balance from the *akhbār* and *āthār* from *zakāt* to *ṣawm*.⁷²

- section in respect of the example of the two sides of the balance, from the *akhbār* and *āthār* from *ṣiyām*⁷³ to *ḥajj*.⁷⁴

- section in respect of the example of the two sides of the balance from the *akhbār* and *āthār* from the Chapter of *ḥajj* to the Chapter of *buyū'*.⁷⁵

- section in respect of the example of the two sides of the balance from the *akhbār* and *āthār* from the Chapter of *buyū'* to *jarāḥ*.⁷⁶

- section in respect of the example of the two sides of the balance from the *akhbār* and *āthār* from the Chapter of *jarāḥ* to the last Chapter of the *fiqh*, that is *ummahāt al-awlād*.⁷⁷

Al-Sha'rānī deals with *aḥādīth*, irrespective of their being sound (*ṣaḥīḥ*) or weak (*ḍa'īf*) in terms of his theory of *takhfīf* and *tashdīd*. He

has not followed the technique of *tarjih*⁷⁸ of one *ḥadīth* over the other. Instead he categorizes all *aḥādīth* into the gradations ranging from *mukhaffaf* to *mushaddad*, based on the division of the *mukallafs*. As such his view in this respect seems to be that of accepting all *aḥādīth* reported to have been narrated from the Holy Prophet. For al-Sha'rānī says that he has recourse to al-Bayhaqī⁷⁹ in taking *aḥādīth*, because al-Bayhaqī, as Ibn al-Ṣalāḥ⁸⁰ has said, "has not left out any *ḥadīth* from all the corners of the earth without incorporating it into his book."⁸¹ This statement requires explanation, which will be discussed later in the section on his opinion regarding *aḥādīth*.⁸²

Thus, al-Sha'rānī covers the whole range of *aḥādīth* which are said to be contradictory to one another, and arranges them in these sections as follows:

(1) a *ḥadīth* with that which is opposed to it.

(2) a main *ḥadīth* along with those *aḥādīth* which corroborate the main one in the form of *riwāyah*,⁸³ followed by those *aḥādīth* opposed to the above one. The contrast is shown by the term *ma'a*.

(3) occasionally the opinions of individual scholars are given to support the *ḥadīth*.

(4) classification of the *aḥādīth* under the categories of *takhfif* and *tashdīd*.

(5) referring them to the two sides of the balance.

Interestingly, al-Sha'rānī does not give reasons for the contradiction, instead, he refers the readers to the respective sections in the chapters of

fiqh, where he says that he has mentioned the reasons. However, occasionally, he applies the *takhfif* and *tashdīd* on the two categories of people: those who are able and those who are unable to perform the obligations. In some places, the author states the opinions of others as explanations.

In the listing of the contradictory *aḥādīth*, the author seems to arrange the *aḥādīth* according to a systematic order of precedence, though, quite often this order is broken. Thus,:

- a *marfū*⁸⁴ *ḥadīth* is given precedence over other *aḥādīth*.
- a *ḥadīth* from the compilations of Bukhārī⁸⁵ and Muslim⁸⁶ is given precedence over others like al-Bayhaqī.
- a *ḥadīth* wherein there is clear command is given precedence over that which has permission or approval.
- a *ḥadīth* wherein the Prophet is quoted is given precedence over a report without his words.
- a *ḥadīth* narrated by a *ṣaḥābi* is given precedence over that of a *tābi* 'ī.
- where both the contradictory *aḥādīth* are narrated by *ṣaḥābah*, precedence is given to those who are of a higher status (*ajall*) and closer to the Prophet over other *ṣaḥābah*.⁸⁷
- a *ḥadīth* of Bukhārī is given precedence over that of Muslim.
- a *ḥadīth* narrated by the *shaykhayn*⁸⁸ is given precedence over a *ḥadīth* narrated by either of them or by others.

- a *ḥadīth* narrated by more than one *ṣaḥābī* is given precedence over a *ḥadīth* narrated by an individual *ṣaḥābī*.

- a *ḥadīth* narrated by more than one compiler is given precedence over a *ḥadīth* narrated by one or two compilers.

- a *ḥadīth* narrated by Ḥākim⁸⁹ and Abū Dāwūd⁹⁰ is given precedence over that of al-Bayhaqī.

- a *ḥadīth* narrated by the *a'immaḥ* is given precedence over others.

- a *ḥadīth* of a narrator is given precedence over the opinion of the *a'immaḥ*.

- an opinion of a *ṣaḥābī* as quoted by a narrator is given precedence over an opinion of anyone else.

Thus, al-Sha'rānī takes these elements into consideration in the arrangement of these contradictory *aḥādīth*. But, in one of the *ḥadīth* both the contradictory opinions are present.⁹¹ Thus, he classifies one opinion as *takhfīf* and the other as *tashdīd*.

Thereafter al-Sha'rānī begins to apply the principle of *takhfīf* and *tashdīd* in the chapters of *fiqh*.⁹² He begins to analyse and categorise the opinions of the *a'immaḥ* according to the aforementioned two sides of the balance. In this he discusses the issues in an ordered pattern:

(1) the issues on which scholars have agreed are listed concisely;

(2) the issues on which scholars have disagreed are itemised;

(3) attention is given to the views of specific jurists who have caused a controversy;

(4) in the classification of the views into categories *takhfif* and *tashdīd*, he uses variations in terminology. Thus, a requirement which he considers to involve *tashdīd* he frequently terms *mushaddad* or that in which (*fīhi*) there is *tashdīd*. Similarly in the case of *takhfif*, he uses the term *mukhaffaf* or that in which (*fīhi*) there is *takhfif*. Where a third view exists which could be interpreted to support either of the contrasting views depending on the circumstances, he uses the term *mufaṣṣal* to describe it or that in which (*fīhi*) there is *tafṣīl*.

For instance, in the issue of selling wheat flour, al-Sha'rānī quotes Mālik and al-Shāfi'ī, saying that "it is not permitted to exchange the wheat flour for its like."⁹³ However, Aḥmad opines that "such sale is permitted,"⁹⁴ while Abū Ḥanīfah opines that "it is permitted to exchange one for the other if they are equal in respect of fineness and coarseness."⁹⁵ Thus, "the first opinion is *mushaddad*, the second one is *mukhaffaf*, while the third opinion is *mufaṣṣal*."⁹⁶ The *mufaṣṣal* which distinguishes and separates one opinion from the other, will become one of the two sides if it fulfils the condition of any one of them. Thus, in the above example, the exchange of wheat flour for the like of that will be affected, if they are not equal in respect of the specified qualities. In that case, in the opinion of Abū Ḥanīfah, such a sale would not be permitted, and this involves *tashdīd*. However, at times *tashdīd* and *takhfif* of an opinion depends on the opinion of an *imām*.⁹⁷ His usage of the phrase "*aḥad shiqqay al-tafṣīl*" (one of the two parts of *al-tafṣīl*)⁹⁸ indicates the divisibility of *mufaṣṣal*. In one place he uses the term "*mutaraddad*" (indecision) to mean "*mufaṣṣal*."⁹⁹ That is in the case of theft committed by a

*musta'min*¹⁰⁰ or a *mu'āhid*,¹⁰¹ according to Mālik the hands of both of them should be amputated,¹⁰² whereas, Abū Ḥanīfah does not permit the amputation of their hands,¹⁰³ while al-Shāfi'ī has one opinion in favour of it and another against it.¹⁰⁴ Thus the first opinion is *mushaddad*, the second opinion is *mukhaffaf* while the third is *mutaraddad*, since there is an indecisiveness on the part of al-Shāfi'ī.¹⁰⁵

At times he uses the terms like *ashadd* (more severe),¹⁰⁶ *akhaff* (more lenient),¹⁰⁷ *rā'iḥat al-tashdīd* (flavour of severity),¹⁰⁸ or *rā'iḥat al-takhfīf* (flavour of leniency)¹⁰⁹ to mean *tashdīd* and *takhfīf* respectively. Likewise his usage of the term *mutawassit* (the mean) could be taken to mean *mufaṣṣal*.¹¹⁰ However, the phrase *ashadd takhfīf* (extreme leniency)¹¹¹ should be taken in its literal meaning. In some places he gives only the *mukhaffaf* without the *mushaddad*. Instead he classifies it under *khāṣṣ* (particular).¹¹²

(5) referring them to the two sides of the balance. That is the sides of *takhfīf* and *tashdīd* respectively.

(6) these views are examined to ascertain the reasons (*wajh, sabab*) for their differences.

However, occasionally he departs from this procedure and lists together several issues on which there is controversy so that he does not deal with the explanations for these issues individually but deals with them after the group has been listed. For instance, on page 144 vol.1 of *al-Mīzān*, the issues pertaining to the *adhān*¹¹³ of the *junub*,¹¹⁴ the taking of fee for *adhān* and *laḥn*¹¹⁵ of the *mu'adhdhin*,¹¹⁶ al-Sha'rānī lists together without giving the reasons immediately after mentioning the issues, as he

had done with the rest of the *fiqh* issues. In some places he does not even bother to explain the reasons, but instead presumes that the readers understand the issues and refers them to the *fiqh* books, the *sunnah* or even to *Qur'ān*.¹¹⁷ An example is, in the Chapter of *buyū'* concerning the condition of choice (*khiyār*) to refuse or to accept a commodity. Here, after mentioning the various opinions of the *a'immaḥ*, he classifies their opinions into the two categories without mentioning their reasons for this.¹¹⁸

Where all opinions fall on one side, for example *mushaddad*, al-Sha'rānī says that, too, can be categorised into the two sides of the balance.¹¹⁹ For instance, in the case of felony (*jināyah*) Abū Ḥanīfah and al-Shāfi'ī opined that if a man detains another man and enables him to be killed by some other person, the retaliation is against the killer and not against the detainer,¹²⁰ and the detainer is given *ta'zīr*¹²¹ (discretionary punishment).¹²² In other words, Mālik's opinion is that both the detainer and the killer are partners in the killing. Retaliation is against both of them, since it was not possible for the killer to kill the victim without his detention.¹²³ Moreover, the victim was unable to flee after being detained.¹²⁴ Aḥmad b Ḥanbal, in one of his two *riwāyah* opines that the killer should be killed,¹²⁵ whereas the detainer should be imprisoned till he dies.¹²⁶ In the other *riwāyah* he opined that both of them should be killed without exception.¹²⁷ Therefore, the first opinion is *mushaddad* on the killer but not the detainer, while the second opinion is *mushaddad* on both of them according to the condition mentioned for it. The third opinion is also *mushaddad*. Thus the matter is referred to the two sides of the balance.¹²⁸

Al-Sha'rānī uses expressions *wa-min dhālika* (of that is) to introduce new issues and *wa-ka-dhālika* (likewise)¹²⁹ to group together issues of a similar nature. In this, he, occasionally treats the issues of a similar nature by: either classifying the opinions together into the two categories of *takhfīf* and *tashdīd* and then giving reasons for this.¹³⁰ At other times he mentions the similar issues along with the original issue which he then classifies and gives the reasons for.¹³¹ He also sometimes mentions a similar issue after the classification of the original issue, and follows it with the classifications of the former issue and the reasons for both the original and similar issues.¹³²

In elucidating the reasons, al-Sha'rānī mostly follows the principles which he had enunciated in his introduction, that the *mukallafs* are categorised into: (1) those who are strong in faith and have the physical ability to carry out the obligations, and (2) those who are weak in respect of both faith and physical ability to perform the obligatory acts.¹³³ Thus, he uses terms like: *khāṣṣun li al-akābir* (particular to men of great religious merit)¹³⁴ and *khāṣṣun li al-aṣāghir* (particular to men of little religious standing),¹³⁵ thereby depicting the qualities expected of them in their treatment and application of the *shara'ī* issues. For example, the author says on the issue of returning a defective commodity that Abū Ḥanīfah and Aḥmad b Ḥanbal had allowed a delay in the return of the defective commodity,¹³⁶ whereas Mālik and al-Shāfi'ī insisted that it had to be done immediately (*al-fawr*).¹³⁷ The first opinion is *mukhaffaf* and specifically concerns the *akābir* who do not have any fear against anyone whom they deal with and give themselves no preference over their fellow men.¹³⁸ On the other hand, the second opinion is *mushaddad* and is specially for the *aṣāghir* who consider that any good fortune (*al-ḥazz al-*

awfar) should be for themselves and are unlikely to have any regard for the possibility of good fortune being in favour of their fellow men.¹³⁹ However, sometimes such a man may be willing to recognise the good fortune of his fellow men.¹⁴⁰ In that case his situation has changed.¹⁴¹ Nonetheless immediacy is more prudent in respect of their religious standing.¹⁴² In the issue of price-fixing (*tas'ir*), al-Sha'rānī states that both Abū Ḥanīfah and al-Shāfi'ī considered price-fixing to be *ḥarām*.¹⁴³ In other words, Mālik considered that if anyone among the members of the market opposed an increase or a decrease in pricing, it should be said to him, "Either you sell according to the pricing of the market or isolate yourself from it."¹⁴⁴ Then the first opinion is *mushaddad* while in the second opinion there is *takhfīf*.¹⁴⁵ Thus the matter will be referred to the two sides of the balance.¹⁴⁶ The reason for the first opinion is that it aims to prevent the people from being treated in an arbitrary manner so that competitive dealings might be allowed to take place, even if a great deal of wealth might be acquired by some.¹⁴⁷ This is for the *aṣāghir* in whose hearts the love for the world is predominant, and they are the majority of the people in every period.¹⁴⁸ The reason for the second opinion is so that people might be protected from fear and injustice.¹⁴⁹ Presumably al-Sha'rānī means that prices might be kept artificially low in order that poorer people might be able to buy goods which are necessary for life. He illustrates this by quoting the *ḥadīth* which says:

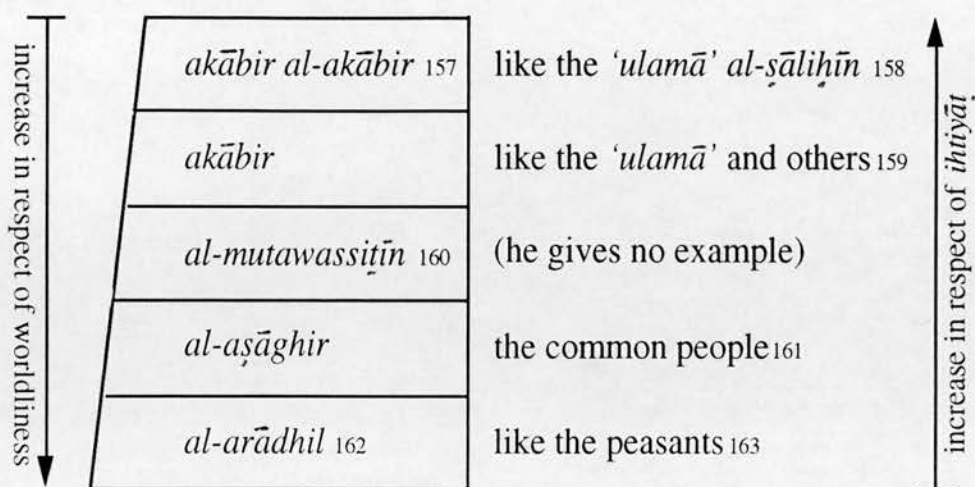
None of your belief will be complete till one loves for his brother what he loves for himself.¹⁵⁰

This is specially for the *akābir* in whom the love for the mundane is not predominant and they have been purified by God from its blameworthy love in totality.¹⁵¹ Thus, the rules of the *sharī'ah* are

applied on the *mukallafs* according to their status in society and before God and according to the qualities expected from these two categories. That is why, the author emphasises that for every position there is people (*li kullī maqāmun rijālun*),¹⁵² implying thereby that to act according to the rules befitting their status is an obligation. Thus the *sharī'ah* is equally applied on these people according to their position in respect of *īmān*, *islām* and *iḥsān*.

However, the theoretical nature of this illustration is clearly at odds with its practical application. One should expect the market to employ the rules of competition or to be governed by price-fixing. Only with difficulty can the two occur side-by-side in a single market. Perhaps what al-Sha'rānī implies is that in the case of necessities there should be price-fixing. However, in that particular case he would have had to apply the rule to the *aṣāghir* as well as the *akābir*.

A careful study of the text will reveal that al-Sha'rānī uses many terms to indicate the difference between the two groups of the *mukallafs*. For instance, he uses the term *al-akābir* rather loosely to accommodate even the wealthy people (*ahl al-tharwah*),¹⁵³ leaders (*umarā'*)¹⁵⁴ and other people of means (*ahl al-rifāhiyyah*)¹⁵⁵ and power (*ahl al-qudrah*).¹⁵⁶ He even states that there is a stage higher than the *akābir*. Thus, the author's classification of the *mukallafs* can be arranged in the following hierarchical order:



In this way, he relates the positions of these groups to the degree of their obedience to the *sharī'ah*. This depends on the relative strength and weakness in terms of physique, belief, circumstances and degree of holiness (*iḥsān*). Therefore, a study of these distinctions between the *mukallafs* is pertinent, as they form the basis of al-Sha'rānī's theory of *takhfīf* and *tashdīd*, which according to the author is much wider than the definitions given by the jurists.¹⁶⁴ This will be discussed later.

In issues where the opinions are not categorised into *takhfīf* and *tashdīd*, one might infer from their contexts. For instance, in the issue of taking *ghusl*¹⁶⁵ for one who attends the Friday congregation (*jumu'ah*), al-Sha'rānī says that the four *a'immaḥ* have specified the requirement of *ghusl* for one who attends the *jumu'ah*.¹⁶⁶ However, in the opinion of Abū Thawr,¹⁶⁷ it is *mustaḥabb* for everyone who either attends the *jumu'ah* or does not attend it. The reason for the first opinion is the saying of the Messenger:

Whoever attends the *jumu'ah* let him take *ghusl*.¹⁶⁸

Thus there is a specification of *ghusl* for one who attends the *ṣalāt al-jumu'ah*. The reason for the second opinion is evident from the saying of the Messenger:

It is the right of every Muslim to take *ghusl* of his body every seven days.¹⁶⁹

Thus the *wujūb* is predicated for the body of one who causes inconvenience to people through the odour of his body and clothes, like the butcher and the oil-merchant. On the other hand, the *istiḥbāb*¹⁷⁰ is predicated on the body of perfume merchant and others.¹⁷¹ Therefore, it can be seen from the above example, even though the author did not categorise the opinions into *takhfīf* and *tashdīd*, the *wujūb* is taken as *tashdīd* on the butcher and the oil-merchant, while the *istiḥbāb* is a *takhfīf* on the perfume merchant. Likewise, if the butcher and the oil-merchant were not required to take *ghusl* for *jumu'ah*, then they were given *takhfīf*, while by necessitating *ghusl* on the perfume merchant, it would be considered as *tashdīd* on him. However, this is against the spirit of the *sharī'ah*.

In the course of elucidating the reasons for the differences in the hierarchical order, al-Sha'rānī brings in the opinions and quotations from his master 'Alī al-Khawwāṣ and others including Ibn Taymiyyah,¹⁷² al-Shiblī¹⁷³ and 'Abd al-Qādir al-Jīlī.¹⁷⁴ Occasionally, al-Sha'rānī gives further explanations (*īḍāḥ*) of his own or of others or he raises hypothetical questions and then gives his answers to them. He even quotes the opinion of his wife Umm 'Abd al-Raḥmān.¹⁷⁵

The author concludes this work with the explanation from his master 'Alī al-Khawwāṣ concerning the causes for the legislation of the

rules of the *sharī'ah* that the Five Religious Rules, *wājib*, *mustahabb*, *mubāḥ*, *makrūh* and *ḥarām* have been revealed from the Heavenly Domains.¹⁷⁶ All these *takālīf* resemble the *kaffārah*¹⁷⁷ for what Adam had eaten from the forbidden tree just as the *Mīzān* refers all the *madhāhib* of the *mujtahids* and their *muqallids* to the two sides of the *sharī'ah* so as to complete the repentance of the descendants of Adam.¹⁷⁸ Even this conclusion consists of many hypothetical questions and their answers which are mostly quoted from his master 'Alī al-Khawwās. He reports the latter as saying, "If there was a difference (*mukhālafah*) then it is a *kaffārah*, and if not, it is the elevation of the status to the level of the prophets."¹⁷⁹ To this al-Sha'rānī questions his master, "If it is an elevation of the status of the prophets, then what is the meaning of the saying of the Lofty:

And Adam disobeyed his Lord, thus he strayed away from the right way".¹⁸⁰

'Alī al-Khawwās replies, "What God narrates by way of a story about what is described as the disobedience and mistake of the prophets, is in fact a metaphorical usage, for none of them left the precinct of perfection (*iḥsān*) for a single moment of the night or day."¹⁸¹ That precinct is the direct vision (*mushāhadah*) of the Truth. Therefore, it is not valid for anyone in that state to be disobedient.¹⁸² Disobedience is found in those who have been veiled from witnessing God.¹⁸³ Thus, what is called the disobedience and mistake of the prophets is in fact only in outward form (*ṣūriyyah*), not in reality,"¹⁸⁴ it is so that some of them teach his people the difficulty of vindicating themselves with God through *tawbah*¹⁸⁵ and *istighfār*,¹⁸⁶ whenever they fall into (wrongful) dispute.¹⁸⁷ To illustrate this al-Sha'rānī quotes an interesting tale from 'Alī al-Khawwās in which

the latter compares God to a king who is obeyed.¹⁸⁸ One day the king said to the chosen people of his land, "I wish to bring a thing into existence (meaning the Creation) while revealing a book and sending down messengers with injunctions and prohibitions. I have made for those who obeyed them an abode called *al-jannah* (heaven),¹⁸⁹ and for those who disobeyed them an abode called *al-nār* (hell).¹⁹⁰ I brought forth from my servant Adam a progeny who will populate (*yu'ammir*) the earth. I addressed them with *takālīf* after having made him able to eat from the tree and apparently prohibiting him from approaching it. Thereafter, I established against him and against his progeny a proof; for him the proof is metaphorical in form, whereas for his progeny the proof is real and not metaphorical. Then I made him leave that *jannah* in which he ate from the (forbidden) tree to another abode lower than it called *dunyā* where I perfected his status. So that whoever was present in the gathering of this agreement will not pass judgement on Adam for absolute disobedience. Instead he will pass on him the judgement of obedience to his Lord, as opposed to one who was absent from the gathering who will pass the judgement of disobedience on him. It is inevitable since there were the veiled ones among the progeny of Adam. Therefore, that was of great advantage to them so that according to God's determination they would appear sometimes with disobedience, thereby manifesting His clemency and forgiveness, and at other times with obedience, thereby manifesting His nobleness and majesty. Therefore, it was as though Adam provided the veiled ones among his progeny with the example of that formal crying and excessive sadness, in which those among his progeny who transgressed the law of God will fall. He has, as though, through his

action, opened the door of forgiveness for his progeny."¹⁹¹ Continuing his explanations, 'Alī al-Khawwās says:

All of the disobediences which happened from Adam are like his obedience to God...For, God...was pleased with him when he ate from the tree. (It was) just as He was pleased with him when he was performing his *ṣalāt*. As such whoever says in respect of his father (i.e.: Adam - being the father of mankind) anything else by comparing his condition with that of his progeny, has departed from his covenant at the Day of Resurrection. For, they (meaning Adam and Eve) both said: O, Lord we wronged ourselves, and if you do not forgive us, we would certainly be among those who are losers - that is all my children who disobeyed your command. Thus he was, through that, seeking forgiveness for them and not for himself. Therefore, he is like one who intercedes on their behalf before God.¹⁹²

This whole episode of Adam committing the sin of eating the forbidden tree is also mentioned in the Christian doctrines, where the emphasis is on his wilful commission of the sin. This explanation of Adam's "sin" by al-Sha'rānī can be contrasted with the Christian view. Thus the Christians believe that Adam was expelled from heaven because of the sin he committed after he had been persuaded by his wife Eve. That too is why Eve has been accused by them for the sin of Adam. As a result of the sin, the whole of humanity was condemned to a fallen nature and the need for redemption. Al-Sha'rānī, using the teaching of his mentor, 'Alī al-Khawwās, has endeavoured to explain away this problem. By arguing that Adam's "sin" was only of an apparent nature, God had determined that the act or "sin" should be performed by Adam so that Adam might provide an example of God's forgiveness to those human beings who gave in to temptation if they repented. However, in reality, Adam's nature was like all prophets perfect and his life provides an example of perfection to those who experience true *kashf*.¹⁹³

Explaining the relation of Adam's eating from the forbidden tree with the differences of opinion in respect of the *shara'*, al-Sha'rānī says,

for instance, in the case of *nikāḥ*,¹⁹⁴ that, whenever the servant eats, his lust activates him to have sexual intercourse.¹⁹⁵ Thus, had not *nikāḥ* been legislated, he might perhaps, have committed adultery and as a result he would either be killed as a legal punishment or as a concern for that woman with whom he had committed the adultery.¹⁹⁶ Then the mischief will be great. That is why, the *shāri'* (it could mean both God and the Prophet) commanded the necessity of having the *walī*,¹⁹⁷ the two witnesses and the dower from the beginning.¹⁹⁸ As far as the supererogatory charities (*nawāfil al-ṣadaqāt*) are concerned, al-Sha'rānī says they were legislated as means of off-setting any improprieties (*khilāl*) which might have occurred in the obligatory *zakāt*.¹⁹⁹ The same is the case with the *ṣalāt* and the *ṣawm*. Thus, it is also possible that some people might have decreased their amount of charity or might have decreased their happiness in spending.²⁰⁰ As a result, their reward will also be decreased. This is explained in the *ḥadīth* which indicates that God did not promise reward for *zakāt* except when one gives it away while being happy in his heart and pleased in his eye.²⁰¹ Then al-Sha'rānī quotes 'Alī al-Khawwāṣ as saying, "The Messenger of God legislated the voluntary charity as a protection against the tribulation which would befall our bodies. For, the *zakāt al-fiṭr*²⁰² purifies the wealth and the spirit, while the voluntary charity purifies the body from physical (*ḥissī*) and mental (*ma'nawī*) sins."²⁰³

Al-Sha'rānī quotes his master 'Alī al-Khawwāṣ and other *sūfī* scholars (*ahl al-kashf*) in justifying the fact that all the differences are a *kaffārah* for Adam's eating from the forbidden tree. Thus, in the conclusion, the different opinions in all matters of *fiqh* have been attributed to a *kaffārah* for Adam. He earnestly requests the readers to

show respect to the *a'imma* of the *mujtahids* and to acknowledge all the *madhāhib* of the *mujtahids* so that the reader himself may become an expert in it and may be rightfully called "the *shaykh* of *ahl al-sunnah wa al-jamā'ah*"²⁰⁴ of his time.²⁰⁵ He adds, "Whosoever is not called by that honorific title (*laqab*) has indeed done injustice to himself."²⁰⁶

With regard to the style and approach of al-Sha'rānī in his *al-Mizān*, it is noticeable that he tends to repeat himself. He frequently states, "The matter will be discussed in the coming sections if God, the Lofty, wills", or "as we have established in the preceding section." He uses the technique of addressing the reader as if he was engaged in debate with him by saying, "if you say." This is the style of dialectical argument in both theology and *fiqh*. He challenges the readers to provide something better than this balance to prove the concord between the *madhāhib*.²⁰⁷ Al-Sha'rānī states that he is willing to revert to the opinions of others if he is proved to be wrong.²⁰⁸ However, he is very candid in asserting that no one could make the *sharī'ah* on "more than the two sides of *takhfif* and *tashdīd* at all."²⁰⁹ Further he says:

By God, I am a sincere advisor to this *ummah*. I am neither obstinate (*muta'annitun*) nor a demonstrator of (any) knowledge for my own pleasure in respect of what I know...Had it not been for my love to guide the brethren towards what had been mentioned, I would have concealed from them the knowledge of this noble balance.²¹⁰

Al-Sha'rānī persuades the reader not to let anyone among the bygone scholars, who did not compose a balance like this, dissuade him from that. For, he says:

The gift (*jūd*) of the Truth, the Lofty, continues to overflow on the hearts of the scholars in every period. Detach yourself from your natural knowledge of understanding to the real knowledge of unveiling, even if your natural disposition did not like it. For, of the signs of the other worldly science is your rejection of the intellect because of its rejecting the former, and do not accept it except by (way of blind)

acceptance only due to the strangeness of its paths. This is because the paths of unveiling are different to the paths of thinking.²¹¹

While quoting Muḥammad b Mālīk,²¹² al-Sha'rānī says that if knowledge had been a divine gift and a domain of the world, then there would have been no innovation which God preserved for some of the later generation of scholars when none of the earlier generation of scholars had not looked at it.²¹³

He says in the course of quoting other men of learning and spiritual stations that these quotations are narrated orally (*mushāfahah*),²¹⁴ as such these are not found in any books and none has preceded him in stating these quotations.²¹⁵ Further, al-Sha'rānī states that these are "secrets" (*asrār*),²¹⁶ therefore, "precious" (*naḥīs*).²¹⁷ By this, the author tries to establish the originality of this book in the sense that he is recording the sayings of these men for the first time. Thereby he implies the importance of his book *al-Mizān*.

His respect for the prophets, the *ṣaḥābah*, the *tābi'īn*, the *a'immaḥ* and other great personalities of *Islām* is evident from his usage of appropriate phraseology of respect like *ṣallā Allāhu 'alayhi wa-sallam* [on whom be the regard and salutation of God] after mentioning the Prophet, *raḍī Allāhu ta'ālā 'anhu(m)* [may God be pleased with him (or them)] for the *ṣaḥābah*, the *tābi'īn* and at times for the *a'immaḥ*, and *raḥimahu Allāhu ta'ālā 'alayhi* [may God be merciful to him] for other great personalities of *Islām*. But, al-Sha'rānī is not consistent in this respect. In some place he addresses Abū Bakr,²¹⁸ 'Umar b al-Khaṭṭāb²¹⁹ and 'Alī b Abū Ṭālib²²⁰ as *imāms*.²²¹ Is he suddenly referring to *imām* as an equivalent term for *khalīfah* or does he regard them as the equivalent

to those people for whom he usually uses the term *imām*? He does not use this term for them on other occasions. However, the explanation may lie in his statement that the *imāms* are like the *ṣaḥābah*. He uses persuasive words to appeal to the reader to read extensively with sincerity in order to remove misunderstanding and contempt for one another in the form of *madhhabi* chauvinism.

The usage of the terms *muḥtahids*, *a'immaḥ* and '*ulamā*' is, at times, confusing. He tends to use them interchangeably. In this way the emphasis of his doctrine is weakened. For instance, al-Sha'rānī states that the *a'immaḥ* have the status as the *ṣaḥābah*,²²² whereas he quotes the *ḥadīth* that the '*ulamā*' are the inheritors of the prophets.²²³ What is not clear in this "confusion" is whether only the *a'immaḥ* are in the status of the *ṣaḥābah* or not. If so, what is the status of the rest of the '*ulamā*', are they not on par with the *ṣaḥābah*? However, the reader should presume that irrespective of the usage of these terms, the author means the *muḥtahids* in general. This confusion is accentuated by his usage of hyperbolic words such as "great" or "greater *sharī'ah*" and the "first spring of the pure *sharī'ah*". The reading of the text could have been much more lucid, if he had adopted a rule of consistency in his usage of words.

Even al-Sha'rānī's usage of the term *shārī'* is misleading. For the term could be applied to both God - being the lawgiver in reality - and the Prophet - being the lawgiver metaphorically. It could have been much better if the author had used phrases like *ṣalla Allāh 'alayhi wa sallam* or '*azza wa jall* after mentioning the term *shārī'* in order to identify whom he is referring to.

Even though the edition used in our present study had been edited by a scholar,²²⁴ some typographical mistakes are found in the text, which, though not serious, do change the emphasis of the author.²²⁵

In the following chapters an attempt has been made to expound his stand on some key jurisprudential issues which he has mentioned in *al-Mizān*.

ENDNOTES TO CHAPTER TWO

1 Al-Mizān, 1:12.

2 Ibid., 1:9.

3 Ibid.

4 Ibid., 1:48

5 Ibid.

6 Ibid.

7 Ibid.

8 Etymologically it refers to what is apparent to the eye. Technically it means, "text." However, when used with the *Qur'ān* and *sunnah*, it means "the precepts (*aḥkām*) contained in the plain words (*zāhir*) of these sources. see Tahānawī, p. 1405; FEI, 6:881; Dozy, *op.cit.*, 2:674-5.

9 Suprisingly al-Sha'rānī does not mention this *ḥadīth* at all. Instead he quotes the *Qur'ānic* verse *fa law lā nafara min kulli firqah minhum ṭā'ifah li yatafaqqahu fī al-dīn*. see al-Mizān, 1:2.

10 Ibid.

11 Ibid., 1:49

12 Ibid.

13 Ibid.

14 Ibid., 1:50. This is the only diagram used in *al-Mizān al-Khidriyyah*, ff. 30.

15 Al-Mizān, 1:50.

16 Ibid.

17 Ibid.

18 Ibid.

19 Ibid.

20 Ibid.

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

25 Ibid.

26 Ibid., 1:51

27 He is Abū Ḥanīfah Nu'mān b Thābit b Nu'mān b al-Marzubān b Zūṭī, born in 80 *h.* and died in 150 *h.* He is a client of Tamīm Allāh b Tha'labah. see Wafayāt, 5:405-10; Fihrist, p. 201; Taghribirdī, 2:12-5; Intiqā', pp. 121-75; Adams, C.C., "Abū Ḥanīfah: Champion of Liberalism and Tolerance in Islam," in MW, 36(1946):217-27; Sezgin, Fuat, *Geschichte Des Arabischen Schrifttums*, (Leiden, 1967), 1:409-19. Hereafter cited as Sezgin. see also text on p. 363 no. 30.

28 He is Abū Muḥammad 'Aṭā' b Abū Rabāḥ Aslam b Ṣafwān, born in Janad (Yemen) of Nubian parentage but was brought up in Makkah. He was a client of the family of Abū Maysarah b Abū Khuthaym al-Fihri. Died in Makkah in 114 *h* at the age of 88. see EIN, 1:730; EI, 1:504; Ibn Sa'd, 2:386; al-Shirāzī, P.17; al-Waraqah, p. 17; Ma'ārif, p. 444; Hilyat, 3:310; Tahdhīb, 7:199; Shadharāt, 1:47; Ibar, 1:141; Tadhkirah, p. 98; Wafayāt, 3:261-3. see also text on p. 362 no. 19.

29 He is the cousin of the Prophet, born three years before the *hijrah*. He became a Muslim when his mother accepted *Islām*. He was called as *al-ḥibr* (the doctor) or as *al-baḥr* (the sea), because he was the greatest of the first generation of Muslims. He died in Ṭā'if in 68 *h.* see EIN, 1:40-1; EI, 1:19-20; Tadhkirah, p. 40; Wafayāt, 3:62-4; al-Shirāzī, pp. 22-3. see also text on p. 361 no. 3.

30 see note 200 on p. 41.

31 He is Abū 'Abd Allāh Nāfi' Mawlā 'Abd Allāh b 'Umar, Died in 117 *hijrī*. see Tadhkirah, p. 99; Ibar, 1:147; al-Ma'ārif, p. 460; Tahdhīb, 10:412; Shadharāt, 1:154; Wafayāt, 5:367-8. see also text on p. 362 no. 18.

32 He is 'Abd Allāh b 'Umar b al-Khaṭṭāb, a son of the second Caliph of *Islām*. Born before the *hijrah* and emigrated to Madinah before the emigration of his father. see EIN, 1:53-4; EI, 1:28-9. see also text on p. 361 no. 4.

33 This is also known in the usage of the *muḥaddiths* as *al-silsilah al-dhahabiyyah* (the Golden Chain). see Salāmah, Muḥammad, *Fiqh Ibn 'Umar fī al-Mu'āmalāt*, (Faz, 1980), p. 30; *Wafayāt*, 5:367.

34 *Al-Mizān*, 1:51.

35 *Ibid.* The word intercession is called in Arabic as *shafā'ah*, which is defined as *al-su'āl fī al-tajāwuz 'an dhunūb man alladhī waqa'a al-jināyah fī ḥaqqihī* [the asking about overlooking the sins of one who merits punishment for them]. In describing the term *shafā'ah*, al-Ghazzālī says, "It is an expression about a light which radiates from the Precinct of God on the substance of prophethood from which it spreads to every substance whose relationship is strengthened with the substance of the prophethood through intense love, persistence in observing the *sunnah* and increased remembrance through saluting the Prophet. Its example is the sunlight if it falls on the water, then it reflects from it to a specific place on the wall and not to all the places. That place of the wall was specified due to its relationship with the water in respect of the place. This relationship is denied to all other parts of the wall." see al-Ghazzālī, Abū Ḥamid Muḥammad b Muḥammad, *Kitāb al-Maḍnūn bihi 'alā ghayr ahlihi*, (Cairo, n.d.), pp. 78-9. Further he says that the reality of *shafā'ah* in the world is like the status of a *wazīr* who has special connection with the king. The king forgives the friends and admirers of the *wazīr* due to the special relationship he shares with the king. Moreover, the king does not know the specialities of those who came for assistance except through the introduction of the *wazīr*. *Ibid.* The same is the case with the Prophet and the *a'immaḥ*. For details on the *shafā'ah* of the Prophet and the *a'immaḥ* see al-Bāqillānī, al-Qāḍī Abū Bakr Muḥammad b al-Ṭayyib, *Kitāb tamhīd al-Awā'il wa talkhīs al-Dalā'il*, ed. by 'Imād al-Dīn Aḥmad Ḥayder, (Beirut, 1987), pp. 415-31; al-Bayjūrī, Ibrāhīm b Muḥammad, *Tuḥfat al-Murīd 'alā jawharat al-Tawhīd*, (Cairo, 1939), p. 117. Hereafter cited as *Talkhīs* and *Tuḥfah* respectively.

36 *Al-Mizān*, 1:51.

37 *Ibid.*, 1:52.

38 It is the bridge which cut across the infernal fire. It is finer than a hair and sharper than a sword, and is beset on each side with briars and hooked thorns. The righteous will pass over it with the swiftness of the lightning, but the wicked will soon miss their footing and will fall into the fire of hell. *Hughes*, p. 595.

39 *Al-Mizān*, 1:52.

40 *Ibid.*

41 *Ibid.*

42 *Ibid.*

43 *Ibid.*

44 *Ibid.*

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*, 1:53.

48 *Ibid.*

49 He is Abū al-Ḥarith al-Layth b Sa'd b 'Abd al-Raḥmān, born in Qalqashandā [see note 53 on p. 34] in 94 h. and died in 175 h. see *Wafayāt*, 4:127-32; *Ibn Sa'd*, 7:157; *Fihrist*, p. 199; *Kaḥḥālāh*, 8:162; *Sezgin*, *op. cit.*, 1:445-50. see also text on p. 362 no. 25.

50 He is Abū Ya'qūb Ishāq b Ibrāhīm b Makhḥad b al-Rāhawayh al-Hanzalī al-Marwazī, born in Nishāpūr in 161 h. and died in 238 h. see *Fihrist*, p. 286; *Shadharāt*, 2:89; *Kaḥḥālāh*, 2:228; *Sezgin*, *op. cit.*, 1:109-10. see also text on p. 364 no. 48.

51 Abū 'Amr 'Abd al-Raḥmān b 'Amr b Yuhmid al-Awzā'i, born in Ba'labek in 88 h. and died in 175 h. in Beirut. see *Ibn Sa'd*, 7:185; *EL*, 1:545; *Kaḥḥālāh*, 5:163; *Wafayāt*, 3:127-8; *al-Shīrāzī*, p. 20; *Fihrist*, p. 227; *Hilyat*, 6:135-49; *Tadhkirah*, p. 178; *Ibar*, 1:227; *Tahdhīb*, 6:238; *Shadharāt*, 1:241; *Waraqah*, 20; *Sezgin*, *op. cit.*, 1:516-7. see also text on p. 363 no. 31.

52 *Al-Mizān*, 1:54.

53 It seems that this is al-Sha'rānī's expression of his own imagination. His purpose in using such a term is to show the essential link between the Prophet and the *mujtahids*. This idea might have been borrowed from the *Qur'ānic* verse *jannātin tajrī min taḥtiḥā al-anḥār*. In this diagram there is no indication of the flow of the river. This could be interpreted in both ways. That is, if the flow begins from the Prophet and runs upward to the other *a'immaḥ*, then it indicates that the jurisprudential thoughts and proofs emanate from Prophet and pass through the various *a'immaḥ*. However, if the river flows from the other side (meaning from the side of the *a'immaḥ* towards the

dome of the Prophet) then that would mean that all the deductions of the *a'imma* return to the Prophet.

54 *Al-Mizān*, 1:54.

55 *Ibid.*

56 *Ibid.*

57 *Ibid.*

58 *Ibid.*, 1:54-63.

59 The is the plural of the term *al-ṣaḥābī* (Companion of the Prophet). A *ṣaḥābī*, according to Ibn Hajar is *man laqiya al-nabīy ṣalla Allāh 'alayh wa sallam mu'minan bi hi wa māta 'alā al-islām* (one who met the Prophet...while he being a believer in him and died as a Muslim). see *Ṣaḥābah*, *op. cit.*, 1:7. In his saying "one who met" includes in it among the *ṣaḥābah* one whose presence (*majālasah*) with the Prophet is longer or shorter and one who waged war or did not wage war along with him. While in his saying "while being a believer" he excludes from it one who met the Prophet in the state of his disbelief, thereafter he accepted *Islām*, but he did not meet the Prophet after becoming a Muslim, like the messenger of Heraclius. see Ibn al-Ṣalāh, Abū 'Amr 'Uthmān b 'Abd al-Raḥmān, *'Ulūm al-Ḥadīth al-Ma'rūf bi muqaddimah Ibn Ṣalāh*, ed. by Muḥammad Rāghib al-Ṭabbāgh, (Ḥalab, 1931), p. 263. Hereafter cited as *Ibn Ṣalāh*. However the *uṣūlīs* apply the term *ṣaḥābī* on one whose association to the Prophet was long lasting and increased his presence with him by way of following him and taking from him. This is narrated by Sa'id b al-Musayyib, who used to say that the *ṣaḥābī* will count himself as a *ṣaḥābī* only if he was one who stayed with the Prophet for a year or two and took part in one or two *ghazwahs* (military encounters). see al-Baghdādī, Khatīb, *al-Kifāyah fī 'ilm al-Riwāyah*, (Hyderabad, n.d.), p. 50; for further details see 'Itr, Dr. Nūr al-Dīn, *Manhaj al-Naqd fī 'ulūm al-Ḥadīth*, 3rd. ed., (Damascus, 1981), pp. 116-28. Hereafter cited as *al-Naqd*.

60 Defining a *tābi'ī*, al-Ḥākim says, he is *man shāfaha aṣḥāb rasūl ṣalla Allāh 'alayh wa sallam ai ma'a kaunihi mu'minan* (one who took orally from the *ṣaḥābah* of the Messenger of God...while he being a believer). see *al-Naqd*, *op. cit.*, p. 147; al-Nishāpūrī, al-Ḥākim, *Ma'rifah 'ulūm al-Ḥadīth*, (Cairo, n.d.), p. 42. Hereafter cited as *Ma'rifah*.

61 He is one who took orally from a *tābi'ī* while being a believer on the Prophet. see *Ma'rifah*, *op. cit.*, pp. 46-8; *al-Naqd*, *op. cit.*, p. 151.

62 *Al-Mizān*, 1:63.

63 *Ibid.*, 1:63-75.

64 *Ibid.*, 1:63.

65 *Ibid.*, 1:67-71.

66 *Ibid.*, 1:71-5.

67 *Ibid.*, 1:63.

68 *Ibid.*, 1:75-9.

69 *Ibid.*, 1:4.

70 *Ibid.*, 1:79-84.

71 *Ibid.*, 1:84-93. The word *zakāt* literally means "purity" and "increase." Technically it refers to the amount levied on any Muslim who is free, sane, adult, who possess the minimum taxable amount (*niṣāb*) which remains in his possession for a complete year. see *Hughes*, p. 699; *FEI*, 8:120-5.

72 *Ibid.*, 1:93-5. The word *ṣawm* means fasting which in the legal sense means, "the abstinence (*imsāk*) from things which break the fast (*muftirāt*) with the special *niya* (intention)...The *ṣā'im* must be a Muslim in full possession of his senses and if a woman, free from menstruation and the bleeding of child bed." For details see *EI*, 4:192-3.

73 The word *ṣiyām* is another form of the *maṣdar* from the root *ṣ-w-m*. see *Ibid.*, p. 192.

74 *Al-Mizān*, 1:95-6. The word *ḥajj* refers to the pilgrimage to Makkah, which is the last of the five pillars of *Islām*. It is obligatory on every adult Muslim, of either sex, who has the means to perform it. see *Ibid.*, 2:196-201.

75 *Ibid.*, 1:96-7. The word *buyū'* is the plural of the term *bay'* meaning sale. It is applied to barter and all other types of sales and loan. For details see *Hughes*, pp. 30-4.

76 *Al-Mizān*, 1:97-102. The word *jarh* means injury.

77 *Al-Mizān*, 1:102-5. The word *ummahāt al-awlād* is the plural of the term *umm al-walad*, a term used to denote a female slave who has borne a child to her master, and who is consequently free at his death. see *Hughes*, p. 655.

78 i.e.: giving preference of one *ḥadīth* over another one.

79 He is Abū Bakr Aḥmad b al-Ḥusayn b 'Alī b 'Abd Allāh b Mūsā, born in 384 *h* and died in 458 *h* in Nishāpūr. He was an eminent disciple of al-Ḥakīm [see note 89 below]. see *Ibn al-Subkī*, 3:3; *Tadhkirah*, p. 1132; *Wafayāt*, 1:75-6; *EIN*, 1:1130; *Siddiqī*, *op. cit.*, p. 71. see also text on p. 368 no. 95.

80 He is Abū 'Amr 'Uthmān b 'Abd al-Raḥmān b 'Uthmān b Mūsā b Abū Naṣr al-Naṣrī, known as Taqī al-Dīn Ibn al-Ṣalāh. He was of Kurdish stock. Born in 577 *h* in Sharakhān and died in 643 *h* at Damascus. see *Ibar*, 5:77; *Ibn al-Subkī*, 5:127; *Tadhkirah*, p. 1430; *Wafayāt*, 3:243-5; *Shadharāt*, 5:221; *EIN*, 3:927. see also text on p. 370 no. 122.

81 *Al-Mizān*, 1:78.

82 see text pp. 147-51.

83 It means narration. The one who relates such a *riwāyah* is called as a *rāwī* and the one from whom that *riwāyah* is related is called as *al-marwī 'anhu*.

84 It is a *ḥadīth*, the origin of which is traced back to the Prophet through a *ṣaḥābī*. see *al-Ta'rifāt*, p. 224.

85 He is Abū 'Abd Allāh Muḥammad b Abū al-Ḥasan Ismā'īl b Ibrāhīm b al-Mughairah b al-Aḥnaf Bardizbah al-Ju'fī. Born in Bukhārāh in 194 *h*. and died in Khartank in 256 *h*. see *Tārīkh*, 2:4-36; *Ibn al-Subkī*, 2:2; *TH*, 1:271; *Tadhkirah*, p. 555; *Tahdhīb*, 9:47; *Shadharāt*, 2:134; *Wafayāt*, 4:188-91; *EIN*, 1:1296-7; *Siddiqī*, pp. 53-8. see also text on p. 365 no. 59.

86 He is Abū al-Ḥusayn 'Asākir al-Dīn Muslim b al-Hajjāj b Ward b Khushādh al-Qushayrī, born in the year 206 *h* and died in 261 *h* in Nishāpūr at the age of 55. see *Tadhkirah*, p. 588; *Tārīkh*, 13:100; *TH*, 1:337; *al-Fihrist*, p. 231; *Tahdhīb*, 10:126; *Ibar*, 2:23; *Shadharāt*, 2:144; *Wafayāt*, 5:194-6; *EIN*, 7:691-2; *Siddiqī*, *op. cit.*, pp. 58-60. see also text on p. 366 no. 66.

87 According to 'Abd al-Qāhir al-Baghdādī, the *ṣaḥābah* were categorised under the following grades: (1st grade) those who were earliest in accepting *Islām*, (2nd grade) those who accepted *Islām* during its early stage, (3rd grade) those who made the first *hijrah* to Abyssinia, (4th grade) the Anṣārs of the first 'Aqabah, (5th grade) the *ṣaḥābah* of the second 'Aqabah, (6th grade) the Muhājirs who migrated along with the Prophet, (7th grade) the *muhājirs* who migrated between the entrance of the Prophet at Madīnah and the battle of Badr, (8th grade) those who participated in the battle of Badr, (9th grade) those who participated in the battle of Uḥud, (10th grade) those who participated in the battle of Khandaq, (11th grade) those who migrated to Madīnah between Uḥud and Ḥudaybiyyah, (12th grade) those who took allegiance in the covenant of Ridwān at Ḥudaybiyyah, (13th grade) those who migrated between Ḥudaybiyyah and Conquest of Makkah, (14th grade) those who embraced *Islām* on the day of the Conquest of Makkah, (15th grade) those who entered the religion in waves, (16th grade) children who knew the Prophet and who narrated few traditions from him, and (17th grade) children who were carried to the Prophet at the time of Hijjat al-Widā'. For details see al-Baghdādī, Abū Maṣṣūr 'Abd al-Qāhir, *Uṣūl al-Dīn*, (Istanbul, 1928), 1:298-303.

88 Refers to both Bukhārī and Muslim. However, in other fields this term is used to denote others. For instance, when referring to the *ṣaḥābah* this term is used for both Abū Bakr [see note 218 below] and 'Umar [see note 219 below].

89 He is Abū 'Abd Allāh Muḥammad b 'Abd Allāh b Muḥammad b Ḥamdawīh b Na'im b al-Ḥakam, known as al-Ḥakīm al-Nishāpūrī. Born in Nishāpūr in 321 *h* and died there in 405 *h*. see *Wafayāt*, 4:280-1; *Tārīkh*, 5:473; *Tabayīn*, p. 227; *Ibn al-Subkī*, 3:64; *Tadhkirah*, p. 1039; *Ibar*, 3:91; *Shadharāt*, 3:176; *EIN*, 3:82. see also text on p. 367 no. 80.

90 He is Abū Dāwūd Sulaimān b al-Ash'ath b Ishāq b Bashīr b Shaddād b 'Amr b 'Imrān al-Azadī, known as Abū Dāwūd al-Sijistānī. Born in 202 *h* and died in Baṣrah in 275 *h*. see *Tārīkh*, 9:55; *TH*, p. 118; *Tadhkirah*, p. 591; *al-Shīrāzī*, p. 50; *al-Waraqah*, p. 50; *Wafayāt*, 2:404-5; *EIN*, 1:114; *Siddiqī*, *op. cit.*, pp. 61-3. see also text on p. 365 no. 60.

91 *Al-Mizān*, 1:105.

92 *Ibid.*, 1:107.

93 *Ibid.*, 2:69.

94 *Ibid.*

95 *Ibid.*

96 *Ibid.*

97 *Ibid.*, 2:168.

98 *Ibid.*, 2:124.

99 *Ibid.*, 2:167.

100 He is one who sought assurance of protection over his self, wealth, honour and religion for a stipulated period. see *Lughah*, *op.cit.*, p. 426; *ẒIN*, 1:429-30, s.v. *aman*.

101 He is one who is under treaty with the Muslims.

102 *Al-Mizān*, 2:167.

103 *Ibid.*

104 *Ibid.*

105 *Ibid.*

106 *Ibid.*, 2:24.

107 *Ibid.*, 1:213.

108 *Ibid.*, 1:116.

109 *Ibid.*

110 *Ibid.*, 1:214.

111 *Ibid.*, 2:15.

112 *Ibid.*, 2:105.

113 It is the call to perform *ṣalāt*.

114 He is one who is in his major ritual impurity.

115 It is the act of reciting the *Qur'ān* with melody.

116 He is one who calls people to perform *ṣalāt*.

117 *Al-Mizān*, 2:142.

118 *Ibid.*

119 *Ibid.*

120 *Ibid.*

121 It is defined as *ta'dhīb dūna al-hadd* (a disciplinary punishment other than the mandatory punishment mentioned in the *Qur'ān* (*ḥadd*)). see *al-Ta'rifāt*, p. 65. It is left to the discretion of the judge. Thus it is called as Discretionary Punishment. *Lughah*, *op.cit.*, p. 136.

122 *Al-Mizān*, 2:142.

123 *Ibid.*

124 *Ibid.*

125 *Ibid.*

126 *Ibid.*

127 *Ibid.*

128 *Ibid.*

129 For instance, on page of Vol. 1, where he mentions the impurity of the stagnant water which is less than the two *qullah* along with the running water. For he says the latter is like the former.

130 *Al-Mizān*, 1:144. see the issue of taking fee for *adhān*.

131 *Ibid.*, 1:153. see the issue on reciting the *sūrah fātiḥah* (the opening chapter of the *Qur'ān*).

132 *Ibid.*, 1:112.

133 *Ibid.*, 1:3.

134 *Ibid.*, 2:16.

135 *Ibid.*

136 *Ibid.*, 2:70.

137 *Ibid.*

138 *Ibid.*

139 *Ibid.*

140 *Ibid.*

141 *Ibid.*

142 *Ibid.*

143 *Ibid.*; It is also the opinion of Aḥmad b Ḥanbal. see al-Sharbīnī, Muḥammad al-Khaṭīb, *Mughnī al-Muhtāj bi sharḥ al-Minhāj*, (Cairo, 1955), 2:38; Ibn Qudāmah, Muwaffaq al-Dīn 'Abd Allāh b Aḥmad, *al-Mughnī*, (Cairo, n.d.), 4:217. Hereafter cited as *Muhtāj* and *Mughnī* respectively. However, according to the Ḥanafites price-fixing in essential commodities is permitted as protecting the people from harm. see Ibn Juzay, Abū al-Qāsim Muḥammad b Aḥmad, *al-Qawānīn al-Fiqhiyyah*, (Beirut, n.d.), p. 255; Here after cited as *Juzay*.

144 *Al-Mizān*, 2:70.

- 145 *Ibid.*
 146 *Ibid.*
 147 *Ibid.*, 2:70-1.
 148 *Ibid.*, 2:71.
 149 *Ibid.*
 150 *Ibid.*; *Bukhārī*, 1:4.
 151 *Al-Mizān*, 2:71.
 152 *Ibid.*; *Latā'if*, *op. cit.*, p. 86.
 153 *Al-Mizān*, 2:205.
 154 *Ibid.*, 1:169.
 155 *Ibid.*, 2:54.
 156 *Ibid.*, 1:165.
 157 *Ibid.*, 1:169.
 158 *Ibid.*, 2:31. They are called *ahl al-murū'āt*.
 159 *Ibid.*, 2:63.
 160 *Ibid.*, 1:177.
 161 *Ibid.*, 2:6.
 162 *Ibid.*, 1:169.
 163 *Ibid.*, 1:182.
 164 *Ibid.*, 1:14.

165 It is the religious act of bathing the whole body after a legal impurity. Scholars are unanimous in prescribing the washing of the whole body after the following acts which render the body impur: (1) *ḥayḥ* (menses); (2) *nifās* (child birth); (3) *jimā'* (coitus); and (4) *iḥtilām* (wet dream). It is absolutely necessary that every part of the body should be washed, for 'Alī relates that the Prophet said, "He who leaves but one hair unwashed on his body, will be punished in hell accordingly." see *Hughes*, 139-40.

- 166 *Al-Mizān*, 1:208.

167 He is Abū Thawr Ibrāhīm b Khālīd b Abū al-Yamān al-Kalbī. Born in Baghdād in 170 *h* and died there in 240 *h*. at the age of 70. see *Ibn al-Subkī*, 1:227; *Tārīkh*, 6:65; *Wafayāt*, 1:26; *Fihrist*, p. 211; *Tahdhīb*, 1:118; *Shadharāt*, 2:93; *Ein*, 1:155; Jabur, Sa'dī Ḥusayn 'Alī, *Fiqh al-imām Abū Thawr Ibrāhīm b Khālīd b Abī al-Yamān al-Baghdādī*, (Beirut, 1983). see also text on p. 364 no. 46.

- 168 *Al-Mizān*, 1:208.

- 169 *Ibid.*

- 170 That is *al-mubāḥ*.

- 171 *Al-Mizān*, 1:208.

172 It is not clear as to whether, al-Sha'rānī meant the grandfather or the grandson. For both of them are called as Ibn Taymiyyah. However, al-Malījī says that he is Majd al-Dīn (the grandfather) and not "the one who caused the *fitnah* (*ṣāhib al-fitnah*)" meaning the grandson Taqī al-Dīn Ibn Taymiyyah. see *al-Manāqib*, p. 49. The researcher believes that there is nothing wrong even if al-Sha'rānī respects the latter Ibn Taymiyyah, for it is well within the doctrine propounded by al-Sha'rānī that all *mujtahids* are divinely guided; as such all of them are rewarded for their intellectual deliberations in respect of the religion. see also note 146 on p 39.

173 He is Abū Bakr Dulaf b Jaḥdar b Yūnus al-Shiblī, born in Baghdad. He was of Mālikite *madhhab*. see *Wafayāt*, 2:273-6; *Tārīkh*, 14:389; *Hilyat*, 10:366; *Taghribirdī*, 3:289.

174 He is Abū Ṣāliḥ 'Abd al-Qādir b Mūsā b 'Abd Allāh b Yaḥyā al-Zāhid. He is the descendant of 'Alī b Abū Tālib through his sons al-Ḥasan and al-Ḥusain. Born in 470 *h*. and died in 561 *h*. and is buried in Baghdād. see *EI*, 1:41-2.

175 *al-Mizān*, 2:159. She is Fāṭimah al-Qaṣabiyyah. Unfortunately there is nothing much written about her or about the other three wives of al-Sha'rānī. However, al-Sha'rānī had high regards for Umm 'Abd al-Rahmān. He acknowledges that she was both more considerate and strong-willed than he. To illustrate her modesty al-Sha'rānī relates that when he took her with him to Makkah for *hajj*, she was the only woman in the group who did not go out for a walk in the town of 'Aqabah, on the way. see al-Sha'rānī, 'Abd al-Wahhāb, *Lawāqih al-Anwār al-Qudsiyyah fī bayān al-Uḥūd al-Muhammadiyyah*, (Cairo, 1961), p. 606; also see his *Tanbih al-Mughaffalīn min al-Fuqahā' wa al-Fuqarā' ilā shurūṭ ṣuḥbat al-Umarā'*, (MS 5624, Berlin), fol. 37b.

- 176 *Al-Mizān*, op. cit., 1:9.
- 177 It is a term used to denote "the atonement for sins" which results from neglecting duties of commissions and omissions. This is mostly used for negligence in observing the normative duties. It is said that *ziyārat al-qubūr kaffārat al-Dhunūb* [visiting the graves of the saints is an atonement for sins]. see *Hughes*, p. 113.
- 178 *al-Mizān*, 2:207.
- 179 *Ibid.*
- 180 *Ibid.*; *al-Our'ān*, 20:121.
- 181 *al-Mizān*, 2:207.
- 182 *Ibid.*
- 183 *Ibid.*
- 184 *Ibid.*
- 185 Repentance. see Ḥusain, Syed Mu'azzam, "Effect of *Tauba* (Repentance) on Penalty in Islam," in *Islamic Studies*, 3 (Sept. - 1969), No. 3, pp 189-98.
- 186 i.e.: seeking forgiveness from God.
- 187 *Ibid.*
- 188 i.e.: Heaven or Paradise. However, the *ṣūfīs* use this term to express different stages of spiritual life. see *Hughes*, pp. 225-6.
- 189 i.e.: the World.
- 190 *Ibid.*
- 191 *Ibid.*, 2:207-8.
- 192 *Ibid.*, 2:208.
- 193 *Ibid.*
- 194 It literally means *al-ḍamm wa al-jam'* [sexual intercourse]. Technically it refers to the marriage contract. see *Hughes*, pp. 313-27; *EI*, 3:912-4.
- 195 *Al-Mizān*, 2:216.
- 196 *Ibid.*
- 197 see note 78 on p. 198 for explanation.
- 198 *Al-Mizān*, 2:216.
- 199 *Ibid.*, 2:214.
- 200 *Ibid.*
- 201 *Ibid.*
- 202 *Zakāt al-Fiṭr* or *ṣadaqah al-Fiṭr* is a charity which is paid on the day of 'Id al-Fiṭr. It is made obligatory on every free Muslim who possesses the required *niṣāb* which is in excess of his food, shelter, cloth, weapons and slaves. The reason for its legislation is that the Prophet made it obligatory on one who fasts to give away some amount in charity in order to purify himself by feeding the needy ones. If someone performs before the festival *ṣalāt*, then it is considered as an accepted *zakāt*. However, if it is performed after the *ṣalāt* then it is considered as one of the charities. see al-Mirghinānī, Burhān al-Dīn 'Alī b Abū Bakr, *al-Hidāyah: Sharḥ bidāyat al-Mubtadī*, (Cairo, 1970), 2:281.
- 203 *Al-Mizān*,
- 204 The term *ahl al-sunnah wa al-jamā'ah* means "the People of the *sunnah* and the community". They are those who refrain from deviating from the dogma and practice. The expression is particularly used in this sense in opposition to *Shī'ah*. *EI*, 4:555.
- 205 *Al-Mizān*, 2:218.
- 206 *Ibid.*
- 207 *Ibid.*, 1:12
- 208 *Ibid.*
- 209 *Ibid.*
- 210 *Ibid.*, 1:13.
- 211 *Ibid.*
- 212 He is Abū 'Abd Allāh Jamāl al-Dīn Muḥammad b 'Abd Allāh b Mālīk al-Ṭā'i al-Hiyānī, known as Ibn Mālīk al-Naḥwī. Born in Ḥayyān in Andalus in 600 h. and died in Damascus, in 672 h.. He is the writer of the famous work on grammar *Alfiyah*. see *Khalīfah*, p. 151.
- 213 *Al-Mizān*, 1:13.
- 214 *Ibid.*, 1:178.

215 *Ibid.*, 1:154

216 *Ibid.*

217 *Ibid.*

218 He is Abū Bakr 'Abd Allāh, surnamed 'Atīq. He was three years younger than the Prophet and became the first Caliph. He died in 13 *h.* at the age of 63. see *FEI*, 1:80-2; *al-Shirāzī*, pp. 18-9.

219 He is 'Umar b al-Khaṭṭāb known as Abū al-Ḥafṣ, was the second Caliph and was first to be called as *amīr al-mu'minīn* (leader of the faithfuls). Born 13 years after Abrahā's invasion of *ka'bah* and was assassinated in 23 *h.* at the age of 55. see *al-Shirāzī*, pp. 19-21; *al-Isābah*, 4:518-9. see text on p. 361. no. 2.

220 *Al-Mizān*, 1:106.

221 *Ibid.*, 1:101-2 and 209.

222 *Ibid.*, 1:30.

223 *Ibid.*, 1:32.

224 His name is given as Aḥmad Sa'd 'Alī, a scholar from al-Azhar. see *al-Mizān*, 2:222.

225 In the latest edited version of *al-Mizān al-Kubrā*, the editor Dr. 'Umayrah has attempted to correct some of these mistakes. However these corrections are unnecessary.

CHAPTER THREE

Al-Sha'rānī's attitudes towards *Sunnah* and *Hadīth*

The second source of *Islāmic* Law is usually termed either *sunnah* or *ḥadīth*. In fact a *ḥadīth* is a report which forms the basis of a practice (*sunnah*); as such the terms are often regarded as synonyms.

Sunnah:

Al-Sha'rānī, following general Islamic understanding, maintains that the *sunnah* occupies a position second to that of the *Qur'ān* as it explains that which is stated generally in the latter. In this way, it comments on the Book and not vice-versa.¹ As a proof for this statement al-Sha'rānī quotes the *Qur'ān* in which it was said to the Prophet that his role was, "To explain to the people what was sent down to them."² This is because the explanation would be given in language which was different from the revelation.³ Thus, al-Sha'rānī argues, "Had the '*ulamā*' of the *ummah* been confined to the explanation of the general concepts and the deduction of rules from the *Qur'ān*, the Truth, the Lofty, would, certainly have deemed it sufficient for the revelation to be promulgated without commanding the Messenger to elucidate it."⁴ On the contrary, God clearly states that:

We have not left out anything in the Book,⁵

meaning that the *Qur'ān* is self-sufficient and comprehensive. As such there is no need for any explanation. However, the ambiguities in the *Qur'ān* are explicable only by the *sunnah*. In this respect, al-Sha'rānī states:

Had not the Messenger of God explained to us the manner of ritual purification, *ṣalāt*, *ḥajj* and others, none of the *a'immaḥ* would have been guided towards understanding the extraction of that from the *Qur'ān*, nor would we have known the number of the *raka'āt* of the *fard* (*ṣalāt*) nor the *nawāfil*, nor other matters.⁶

Adding to what he has said above, al-Sha'rānī quotes his master 'Alī al-Khawwāṣ as saying that none would have "known that the (*ṣalāt al-*) *ṣubḥ* was two *raka'āt*,⁷ while the *zuhr*, *'aṣr* and *'ishā'* were four (*raka'āt*), nor that the *maghrib* was three *raka'āt*."⁸ Further, none would have known "what is to be said in the opening supplication, nor would he have known the manner of *takbīr*,⁹ nor of the *dhikr*¹⁰ of the *rukū'*,¹¹ the *sujūd*¹² and the *i'tidāl*."¹³ He would not even know "what had to be said while sitting during the *tashahhud*."¹⁴ Likewise he would not understand the manner of performing the *ṣalāt* of the two festivals,¹⁵ the two eclipses¹⁶ nor the other *ṣalawāt*¹⁷ like the *ṣalāt al-janāzah*¹⁸ and *istisqā'*.¹⁹ Moreover, he would be ignorant about the *naṣīb*²⁰ of the *zakāt*, the rules of *ṣawm*, *ḥajj*, *buyū'*, *munākaḥah*,²¹ *jarāḥ*, *qaḍā'*²² and all the chapters of *fiqh*.²³

In the same vein Zakariyyā al-Anṣārī, according to al-Sha'rānī, has said that all the rules came as general concepts in the *Qur'ān*. If there had not been a *sunnah* to explain to us the meaning of the general rule, we would not have known it.²⁴

Continuing the argument, 'Alī al-Khawwāṣ says that the *sunnah* defines what we understand about the rules of the Book and not otherwise.²⁵ The Prophet was the one who "explained to us the rules of the Book through the utterance of his *shārī'ah*,"²⁶ which he did "not pronounce out of his own desire, but only as the revelation revealed to him."²⁷ Further, the saying of God:

Thereafter if you dispute in respect of a(ny) thing, then refer it to God and the Messenger,²⁸

clearly indicates the importance of the *Qur'ān* and the *Sunnah*. Therefore, it is required of the *mukallafs* as *mukallafs* to "act according to what both the *Qur'ān* and the *sunnah* agreed upon or, in the absence of one of them, what the other says is acceptable."²⁹

Al-Sha'rānī, then quotes the *Sunnan* of al-Bayhaqī wherein the latter is quoting 'Umar b al-Khaṭṭāb as saying that he (i.e. 'Umar) was asked about shortening the *ṣalāt* on a journey.³⁰ The questioner asked him: "We certainly see in the Great Book *ṣalāt* of fear and we do not find *ṣalāt* of journey."³¹ To this 'Umar replied, "O, son of my brother, verily God sent to us Muḥammad when we did not know any thing."³² However, "we acted according to what we saw the Messenger of God performing."³³ As such, the "shortening of the *ṣalāt* on journeys is a *sunnah* (which) the Messenger of God made a *sunnah*."³⁴ In this regard, al-Sha'rānī narrates an incident where a man said to 'Imrān b Ḥusayn,³⁵ "Do not speak to us except with the *Qur'ān*."³⁶ Then 'Imrān replied: "You are indeed stupid."³⁷ He asked the questioner, "Is there in the *Qur'ān* an explanation of the number of obligatory *raka'āt*, or (commands as to recite) loudly in that (*ṣalāt*) and not in that (other *ṣalāt*)?"³⁸ The man replied, "No."³⁹ Thus, it becomes clear to the reader

that the *sunnah* essentially serves as explanation to those verses which cannot be understood without any explanation. The denial of the *sunnah* would mean the denial of understanding the divine rules.⁴⁰ Therefore, the *mukallafs* should adhere to both these sources. Perhaps this is what the messenger meant when he said:

It is obligatory for you all to hold fast to my *sunnah* and to the *sunnah* of the *khulafā'* after me (and) you all grip them with the canine teeth. I warn you from innovated thing. For every innovated thing is an innovation and every innovation will lead you astray.⁴¹

Regarding the classification of the *sunnah* into *takhfīf* and *tashdīd*, al-Sha'rānī maintains that the two sides are also involved in the *sunnah*.⁴² For, he says that the meritorious (*faḍl*) one takes precedence over the less meritorious (*maḍḍūl*) one as a recommended act, while the *mukallaf* has the ability to do it.⁴³ Likewise, the legally most appropriate (*awlā shara'*) takes precedence over that which falls short of the best, even though it is permissible to leave the *afḍal* when the *maḍḍūl* is the original.⁴⁴ Therefore, whoever wants to avoid blame should not descend to the *maḍḍūl*, except if he is incapable of performing the most meritorious (*afḍal*).⁴⁵

Explaining the reason for the contradiction in the *sunnah*, al-Sha'rānī states that it is due to the fact that the messenger of God "used to address the people according to their level of understanding and their status in respect of *islām*, *īmān* and *iḥsān*."⁴⁶ To illustrate these contradictions al-Sha'rānī quotes the *Qur'ān* where it is stated that the desert Arabs (*al-a'rāb*) say "we believe", say (O, Muḥammad) "you have not believed but (only) say "we have submitted (our wills to God)."⁴⁷ Commenting on this *Qu'ānic* verse, al-Sha'rānī says that this verse seeks to "set down the knowledge of what we have mentioned, if not, what

difference is there in his (i.e.: the Messenger's) address to the notables (*akābir*) among the *ṣaḥābah* from his address to the boorish (*ajlāf*) of the Arabs?; and where is the status of those from whom the Messenger...took allegiance to hear and obey (the commands of the Messenger) in respect of actions which are encouraged (*munshiṭ*) and actions which are discouraged (*munkirah*); and the difficult and the easier (actions), from those who seek to give allegiance to the Messenger...only in the matter of (performing the) *ṣalāt al-ṣubḥ* and *'aṣr* without the rest of the (obligatory) *ṣalāt*, and without *zakāt*, *ḥajj*, *ṣiyām*, *jihād* and any thing else?"⁴⁸

Hadīth:

In respect of *ḥadīth*, al-Sha'rānī opines that contradictory *aḥādīth* follow the classification of *takhfīf* and *tashdīd*.⁴⁹ This is only in respect of *aḥādīth* with alternatives. As for those *aḥādīth* which have been reported without alternatives, meaning those *aḥādīth* which do not have any *muqābil* (opposite), instead it is a "*shara'* on which *ijmā'* has been reached."⁵⁰ Al-Sha'rānī maintains that in these cases "there shall be no two sides of the balance."⁵¹ That will be like "the abrogated *ḥadīth* or like the doctrine which the *mujtahids* had withdrawn from or the scholar's unanimous agreement on its contrary."⁵² Thus there will be only one side for all the *mukallafs*.⁵³ This is because "the lack of any difficulty for anyone to perform it outweighs the difficulty of its being neglected."⁵⁴

Therefore, according to al-Sha'rānī, it is appropriate for "every believer to aspire to (*iqbāl 'alā*) act according to every *ḥadīth* which has been handed down,"⁵⁵ as it will "never be outside the two sides of the balance."⁵⁶ In this respect, the author quotes 'Alī al-Khawwāṣ as saying

that whenever one sees in the speech of the *shāri'* or in the speech of anyone of the *a'immaḥ* anything which contradicts the other in its literal form, it should be interpreted according to two states.⁵⁷ For, "the speech of the *shāri'* is free from contradiction."⁵⁸

Regarding the rule when a student found two *aḥādīth* or two opinions or more without knowing the abrogated one of the two *aḥādīth* nor the later of the two opinions, al-Sha'rānī suggests that the student should "act by this *ḥadīth* or this opinion at one time and by the other opinion at another time and the most prudent one of the two should be preferred over the other, in respect of the injunction and prohibition according to its condition,"⁵⁹ meaning that he does not act according to the other one (i.e.: the less prudent opinion) at all, even if one of them is *mansūkh* or the *mujtahid* had withdrawn from it.⁶⁰

On the issue of interpreting *ḥadīth*, al-Sha'rānī observes that if the *ḥadīth* had been interpreted, "it would have gone away from the intent of the *shāri'*. It is because of this the pious predecessors did not interpret the sayings of the Prophet."⁶¹ Instead he considered that it is "most befitting (*awlā*) to follow (*ittibā'*) the *shāri'*, even though the *shara'ī* principles also testify to that interpretation."⁶² He quotes Sufyan al-Thawrī as saying, "It is good manners (*adāb*) to carry out the *aḥādīth* which lead to restraint and deterrence according to the literal meaning without any interpretation."⁶³

Al-Sha'rānī holds that a *mukallaf* must act according to the *aḥādīth* which have been validated after the demise of the *imām* of the *mukallaf* even though the *imām* did not adopt them.⁶⁴ For, had the *imām* managed to obtain it and he considered it as valid, then he would have commanded

the *mukallaf* to act according to it.⁶⁵ This is because, "all the *a'imma*h are prisoners in the hands of the *sharī'ah*."⁶⁶ Thus, whoever upholds this view "will gather the good with both his hands."⁶⁷ On the contrary, one who asserts that he will act only according to the *ḥadīth* which his *imām* has adopted, will find that "many a good (reward) will slip away from him."⁶⁸ Therefore, it is best for the *mukallafs* to act according to all the *aḥādīth* which have been validated after their *a'imma*h, so that the *waṣiyyah* (directive) of the *a'imma*h will be implemented.⁶⁹ Al-Sha'rānī believes, "Had they lived and managed to obtain those *aḥādīth* which had been validated after them, they would have accepted them and acted according to them."⁷⁰ Then they would have abandoned *qiyās* and personal opinion (*ra'y*).⁷¹ It has been stated that even al-Shāfi'ī used to send for Aḥmad b Ḥanbal asking him:

If there is a valid *ḥadīth* with you, do inform us of it so that we could accept it and we could abandon every opinion which we used to hold before that or which has been held by others. For, verily you are more learned (*aḥfaz*) in respect of *ḥadīth* and we know about that.⁷²

Regarding the classification of *aḥādīth* and opinions into the categories ranging from valid to invalid, al-Sha'rānī says that whoever holds such a view is ignorant of the two sides of the balance.⁷³ He quotes al-Bayhaqī and al-Ḥāfiẓ al-Zayla'ī⁷⁴ as saying that "our *ḥadīth* is more valid and has more narrators."⁷⁵ This, they might have said due to their inability to weaken the proof of their opponents and to refute them as a whole. However, al-Sha'rānī says, "Had al-Bayhaqī or those who held this opinion studied what he claims to have studied that the pure *sharī'ah* came on two sides of *takhfīf* and *tashdīd*, it would be unnecessary for him to say that 'our *ḥadīth* is more valid and has more (narrators).'"⁷⁶ Instead,

he would refer every *ḥadīth* or opinion with that which opposes it to one of the two sides of the *sharī'ah*.⁷⁷

Al-Sha'rānī argues against the accusation levelled against the *madhhab* of Abū Ḥanīfah that its proof is usually weak, by saying that he studied the books of the Ḥanafī *madhhab*, particularly the book, "*Takhrīj al-Aḥādīth*"⁷⁸ of "*Kitāb al-Hidāyah*"⁷⁹ by al-Ḥāfiẓ al-Zayla'ī and found the proof of the *imām* and his disciples was between, what he calls "the valid,⁸⁰ good⁸¹ or weak,⁸² but that which has more than three chains, thus it (i. e.: the weak *ḥadīth*) is annexed to the category of *ḥasan* or *ṣaḥīḥ* in respect of validity."⁸³ Further, al-Sha'rānī maintains that the majority of the *muḥaddiths* took evidence from weak *aḥādīth*, if their chains increase and they annexed it under the category of *ṣaḥīḥ* or *ḥasan*.⁸⁴ This kind of weakness is more present in *Kitāb Sunan al-Kubrā* of al-Bayhaqī, which was compiled with the intention of seeking evidences for the opinions of the *a'immaḥ* and their disciples.⁸⁵ The author believes that if al-Bayhaqī did not find a *ḥadīth* which is *ṣaḥīḥ* or *ḥasan*, which can be taken as evidence for the opinion of an *imām* or the opinion of anyone among his followers, he (i.e.: al-Bayhaqī) would begin to report the *ḥadīth* from such and such chains by saying "these chains strengthen one another."⁸⁶ Thus, according to al-Sha'rānī, "to assume that some of the proofs of the opinions of *imām* Abū Ḥanīfah or of his disciples are weak"⁸⁷ is not particular to him alone, for, in fact, "all the *a'immaḥ* partook with him in that, and there was nothing to blame except on one who took evidence through a weak *ḥadīth* which has only one chain."⁸⁸ Further, al-Sha'rānī asserts that none of the *mujtahids* took evidence from a weak *ḥadīth*, except when it fulfilled the above-mentioned condition of coming from many chains.⁸⁹ He continues, by saying that in his study of the *Masānīd*⁹⁰

of Abū Ḥanīfah, he saw that the latter did not narrate a *ḥadīth* "except from the best of the honest and reliable *tābi'īn* who were the best of the century about whom the Messenger of God had borne witness."⁹¹ They include personalities like al-Aswad⁹², 'Alqamah⁹³, 'Atā'⁹⁴, Ikrimah⁹⁵, Mujāhid, Makhūl⁹⁶, Ḥasan al-Baṣrī⁹⁷ and their like.⁹⁸ None among them were considered to have been accused of lying.⁹⁹ Al-Sha'rānī quotes Abū Ḥanīfah on the status of the *tābi'īn* in these words:

By God, we are not people (worthy of) mentioning them, then how (is it possible) for us to compare between them. There is no narrator among the *muḥaddiths* and the *mujtahids* who did not accept criticism (*jarḥ*)¹⁰⁰ like his accepting the justification (*ta'dīl*)¹⁰¹ if it is related to him, except the *ṣaḥābah*. Likewise, (one should not compare between) the *tābi'īn* due to the lack of impeccability or sound memory (*ḥifẓ*)¹⁰² in some of them. (Even) when the '*ulamā'*... (are considered as) the trusted ones over the *sharī'ah*, they put forward the *jarḥ* or *ta'dīl* to act according to it together with accepting all the narrators while others describe it as probable. On the contrary, the majority of them gave precedence to *ta'dīl* over the *jarḥ*. They said that the origin is '*adālah* (honesty) while the *jarḥ* is extraneous (*tārī'*), so that the majority of the *sharā'ī ḥadīth* will be valid.¹⁰³

This needs explanation.

It is generally believed by the Sunnites (as opposed to the Shī'ites)¹⁰⁴ that the authentic source of Islamic guidance after the *Qur'ān* is the six compendia of *ahādīth* collections, popularly known as *al-Ṣiḥāḥ al-Sittah* (the six authentic ones), which consists of the collections of al-Bukhārī, Muslim, al-Tirmidhī¹⁰⁵, al-Nisā'ī¹⁰⁶, Abū Dāwūd, and Ibn Mājah.¹⁰⁷ The collections by others are not included in these six works. However, this does not mean that the *ahādīth* collected by those other than the above six are unauthentic. For, even in these six works there are *ahādīth* whose authenticity is considered weak. However, the occurrence of weak *ahādīth* in them is far less as compared to the other collections. It is because of this, that these six works are given the status of being the

most authentic collections. As far as the collections of al-Bayhaqī are concerned, it has been claimed that he took very little evidence from fabricated traditions (*al-mawḍūʿ*).¹⁰⁸ However, his collections, too, include weak (*ḍaʿīf*) *aḥādīth*. Nonetheless, even though the number of fabricated *ḥadīth* in his collections is small, he has been criticised by others for using *aḥādīth* known to be *mawḍūʿ*. It should be noted that al-Bayhaqī did not mention a *ḥadīth* after having learnt that that particular *ḥadīth* was a *mawḍūʿ* or *ḍaʿīf*. His aim in collating the *aḥādīth* was to make available to the Muslim *ummah* the *aḥādīth*, whose authenticity had been overlooked by the earlier collectors due to their meticulous carefulness in accepting the *aḥādīth* and which have been authenticated after the demise of al-Bukhārī and others, fearing that by not so doing a significant aspect of the Prophetic traditions would have been lost forever.¹⁰⁹

Commenting on acting according to the weak *aḥādīth*, scholars and *muḥaddiths* are divided as to the permissibility of such. Some opine that it is absolutely permitted to act according to the weak *ḥadīth*, while some others hold that it is absolutely not permitted to act as such. However, the majority are unanimous in their opinion that it is best to accept such *ḥadīth* in respect of *taghrīb*¹¹⁰ and *tarhīb*¹¹¹, *al-manāqib*¹¹² and *faḍāʾil al-aʿmāl*¹¹³ and not in matters of *aḥkām al-sharīʿah*.¹¹⁴ What they meant by *aḥkām al-sharīʿah* is that in which there are clear rules.¹¹⁵ This is because,

If it (i. e.: the weak *ḥadīth*) is valid in actual fact, he will be given his due for acting according to it. However, if it is not his action will not be classified as a wicked act of making lawful what was not or making prohibited what was not. Nor will he lose his due for his other actions.¹¹⁶

And in this regard *imām* al-Nawawī says in his book "*al-Adhkār*:"¹¹⁷

The '*ulamā*' among the *muḥaddiths* and the *fuqahā*' and others said that it is permissible and desirable in respect of the *faḍā'il*, *targhīb* and *tarhīb* to act according to the weak *ḥadīth* as long as it is not *mawḍū'*. But as far the rules like the *ḥalāl*, *ḥarām*, *al-bay'*, *al-nikāḥ*, *al-ṭalāq* and others (are concerned) one should not act in respect of these except through the *ḥadīth* which is *ṣaḥīḥ* (valid) or *ḥasan* (good). If not there should be a (reason to act) prudently in respect of (any) thing from these.¹¹⁸

It is also stated that the validity and the weakness of a *ḥadīth* is according to the opinion of the individual scholar. For neither the Prophet nor any of the *ṣaḥābah* said that such and such a *ḥadīth* is valid or weak. It is narrated by al-Ḥākim and al-Bayhaqī from al-Shāfi'ī that he used to say, "If the *ḥadīth* is valid, then it is my *madhhab*."¹¹⁹ To this Ibn Ḥazm commented, "That is, valid according to him or according to others."¹²⁰ Again al-Sha'rānī quotes al-Suyūṭī as saying, "I am a man from the servants of the *ḥadīth* of the Messenger of God...as such I am in need of him (i.e.: the Prophet) in validating the *aḥādīth* which the *muḥaddiths* had weakened through their path."¹²¹

Thus, it can be seen that the classification of *ḥadīth* as such is according to the consideration of each individual scholar.¹²² To some the age of the narrator is an important factor in validating the *aḥādīth*. For instance, the Ḥanafites consider the narrations from 'Abd Allāh b 'Abbās as weak in comparison to that of 'Abd Allāh b Mas'ūd.¹²³ For Ibn 'Abbās was a lad as compared to Ibn Mas'ūd who was of advanced age at the time of the Prophet. Their argument is that Ibn Mas'ūd was mature enough to understand what the Prophet did and said, whereas Ibn 'Abbās was too young to understand that. But, the Shāfi'ites argued in favour of Ibn 'Abbās saying that though he was young he was praised by the Prophet for

his soundness of intellect. Moreover, being related to the Prophet, he had seen how the Prophet conducted himself in privacy. To the Shāfi'ites his narration is more valid than Ibn Mas'ūd's.

Regarding the use of weak *aḥādīth*, al-Sha'rānī states the reason why he had mentioned weak *aḥādīth* in these words:

I have mentioned the weak *aḥādīth* according to the (opinion) of some of the *muqallids*, for their care, so that they could act according to them, for they might be valid. Therefore, I have compared the valid *ḥadīth* in some places with the weak ones which other *mujtahids* had acted upon. All these are (done as) a mark of respect to the *a'immah* of the *madhāhib* so that whoever sees with a fair eye will know through the context that that weak *ḥadīth*, according to which the *mujtahid* had acted, would not have been taken as evidence by him, had it not been valid according to him.¹²⁴

The *shaykhayn*, according to al-Sha'rānī, had included *aḥādīth* narrated by people about whom others have criticised so as to establish the evidences of the *sharī'ah* against their denial, in order that people will attain the merit of acting according to them.¹²⁵ It is better than finding fault with them, since there was great merit for the *ummah*.¹²⁶ Even acting according to the weak *aḥādīth* by performing the *takhfīf* is considered as a mercy to the *ummah*, because, al-Sha'rānī maintains, "Had the *shaykhayn* or other *muḥaddiths* not made anything weak from the *aḥādīth* by validating all of them, then to act according to them would be an obligation, whereas, most of the people will be unable to act according to them"¹²⁷. Al-Sha'rānī quotes both al-Muzanī and al-Zayla'ī on the names of those who were criticised by others as mentioned by the *shaykhayn*.¹²⁸ They include personalities like Ja'far b Sulaymān al-Dabī'ī,¹²⁹ al-Hārith b 'Ubayd,¹³⁰ Ayman b Thābit al-Ḥabashī,¹³¹ al-Khālīd b Mukhlad al-Qaswāṭīnī,¹³² Suwayd b Sa'īd al-Ḥadthānī,¹³³ Yunus b Abū Ishāq al-Sabā'ī¹³⁴ and Abū Uways.¹³⁵ However, the *shaykhayn* laid down

conditions about a narration from someone whom the people mentioned:¹³⁶ (1) They narrated only from a man who had been (generally) accepted, whose evidence was reliable and whom they knew to be a direct source (*aṣl*). (2) they did not narrate from a narrator a *ḥadīth* which was isolated or one that the other reliable narrators rejected. It is like the *marfūʿ ḥadīth* of Abū Uways which has been quoted by Muslim in his *Ṣaḥīḥ*, the text of which is:

God, the Almighty, says I have divided the *ṣalāt* between Me and My servant into two (equal) halves.¹³⁷

This *ḥadīth*, even though narrated by Abū Uways, has also been narrated by other reliable narrators like *imām* Mālik, Shuʿbah¹³⁸ and Ibn ʿUyaynah.¹³⁹ So this *ḥadīth* has parallels.¹⁴⁰ This effective cause (*ʿillah* - i.e. the fact that it has been related by many sound narrators), according to al-Zaylāʿī and al-Dimyāṭī,¹⁴¹ has circulated among many *ḥuffāz*,¹⁴² particularly those who collected the *aḥādīth* missing (*istadraka*) in the two *ṣaḥīḥ*, like the collections of Abū ʿAbd Allāh al-Ḥākim, collecting and validating the *aḥādīth*.¹⁴³ Thus al-Ḥākim used to say mostly that this *ḥadīth* is valid according to the conditions of the *shaykhayn* or one of them, together with the fact that in the *ḥadīth* there is this effective cause (i.e.: it is narrated by other reliable narrators), since not every *ḥadīth* whose narrator has been claimed as a valid support in the (two) *Ṣaḥīḥ* is valid. Because it is not necessarily the case as a result of its narrator being claimed as valid support in the (two) *Ṣaḥīḥ* that every *ḥadīth* which we find in his work is valid according to the condition of the author of that *Ṣaḥīḥ* because of the possibility of losing one of the conditions of that scholar (*ḥāfiẓ*),¹⁴⁴ just as we mentioned earlier. Indeed, another scholar,

apart from the *aṣḥāb* of that *Ṣaḥīḥ*, has not required (these) same conditions in his *Ṣaḥīḥ*.

Therefore, al-Shaʿrānī suggests that it is not befitting for any one to abstain from acting according to a *ḥadīth* just because the narrator of it has been criticised by others, because, al-Shaʿrānī says, "most often such things might be agreed upon and its evidences are reliable and is known to be a direct source."¹⁴⁵ However, in his opinion, one should abstain from a *ḥadīth* which is isolated and one to which reliable persons have expressed opposition and that for which there appears no evidence.¹⁴⁶ Further, al-Shaʿrānī cautions the readers that by permitting abstinence from acting according to the *aḥādīth* the narrators of which have been criticised by others, "most of the rules of *sharīʿah* would have gone."¹⁴⁷ To avoid such catastrophic consequences al-Shaʿrānī stresses that all the followers of the *mujtahids* should have "good intention towards the narrators of all the evidences of the opposing *madhāhib*."¹⁴⁸ This is because all that they have narrated will not depart from the two sides of the *sharīʿah*, namely the *takhfīf* and the *tashdīd*.¹⁴⁹ Further, the author believes that every proof which comes as contradictory to another proof is not contradictory in reality.¹⁵⁰ On the contrary, it must be applied to two states, either *wujūb* and *nadb* or *tahrīm* and *karāhah* or one of the two *ḥadīth* is abrogated.¹⁵¹ For contradiction in respect of the speech of the *shārīʿ* is prohibited.¹⁵² To illustrate this al-Shaʿrānī gives the following *aḥādīth*:

(1) Whoever touches his private parts let him make ablution.¹⁵³

(2) Is it not but a piece of flesh from you?¹⁵⁴

Even though both these *aḥādīth* seem to contradict one another, they are, in fact, not contradictory. This is because, the *ḥadīth* of the

nullification of ablution by touching the private parts (i.e.: the first *ḥadīth*) is specifically for the great personalities among the believers, while the second *ḥadīth* is applied specifically to the commoners.¹⁵⁵ Therefore, in the first *ḥadīth* there is *tashdīd* while in the second *ḥadīth* there is *takhfīf*.¹⁵⁶

The knowledge of these "contradictions" is essential for the learned. Al-Sha'rānī believes that no one, including a saint (*walī*), shall attain the station of perfection except if he becomes knowledgeable of all the contradictory *aḥādīth* which have come from the Prophet and knows from where the *shārī'* took them from the *Qur'ān*.¹⁵⁷ This is because, as quoted earlier, God says:

We have not left out anything in the Book.¹⁵⁸

Al-Sha'rānī quotes from 'Alī al-Khawwāṣ that all the laws which the *sharī'ah* elucidates are clearly adopted by the perfect *walī* from the *Qur'ān* just as they were adopted by the *a'immaḥ* of the *mujtahids*.¹⁵⁹ If it was not for their knowledge of that, they would not have been able to deduce the laws which have not been clearly stated in the *sunnah*.¹⁶⁰ According to 'Alī al-Khawwāṣ, the above status is considered a great position (*manqabah*) for a perfect scholar, insofar as he comes to participate with the *shārī'* in the knowledge of the contradictory sayings in their forms from the *Qur'ān* through the right of their inheritance from him.¹⁶¹ He is an inheritor of the *shārī'* as has been indicated in the *ḥadīth*:

The '*ulamā*' are the inheritors of the prophets.¹⁶²

In replying to the question of some of the *ḥuffāz* who opined that the evidences of Abū Ḥanīfah are weak, even though there is no *jarḥ* in the chains connecting Abū Ḥanīfah with the Prophet, al-Shaʿrānī says:

It is obligatory on us to apply that to the narrators (coming in the) descending (order) from the *imām* in the chain after his... demise if they report that *ḥadīth* from the path other than the path of the *imām*. For every *ḥadīth* we found in the three *Masānīd* of the *imām* is valid, because had it not been valid with him, he would not have used it as evidence. There the presence of a liar or one who is accused of lying, for example, could impair the chain descending from the *imām*. It is sufficient for us for the validity of a *ḥadīth* that it is used as evidence by the *mujtahids* who used it. Then it is obligatory on us to act according to it even though it has not been narrated by others.¹⁶³

As far as the chain connecting Abū Ḥanīfah with a *tābiʿī* or a *ṣaḥābī* is concerned, al-Shaʿrānī defends the *imām* by saying that it is inconceivable that in his chain of authority there is a person who is ever accused of lying, even though it has been considered as weak.¹⁶⁴ This is because Abū Ḥanīfah took it from the best of the *tābiʿīn*.¹⁶⁵ The weakness of his evidence could be attributed only to those who came after him in the chain.¹⁶⁶ This, therefore, will not impair what the *imām* adopted.¹⁶⁷ The same is the case with the *madhāhib* of his disciples, since none has taken evidence from them through an isolated weak *ḥadīth* (*ḥadīthun ḍaʿīfun fardun*) which had come from one path alone.¹⁶⁸ On the contrary what has been taken as evidence from them was through a *ḥadīth* which is valid, or good or weak, but has many chains until at the end it raises itself to the status of *ḥasan*.¹⁶⁹ However, this is not limited to the *madhhab* of Abū Ḥanīfah or his disciples alone. In fact, as al-Shaʿrānī maintains, "all the *madhāhib* shared in this."¹⁷⁰

Thus, we could conclude that such a classification of *aḥādīth* is a matter in which scholars differed according to their own understanding of the *ḥadīth* and its chains. As such one should act according to the *aḥādīth*

which befit one's position in respect of both faith and physical ability, without attempting to weaken any *aḥādīth* in order to justify one's action. This is because, as al-Sha'rānī has said, the Prophet has spoken according to the level of the understanding of the people. Therefore, one who is incapable of performing the *'azīmah* should carry out his obligation by performing the *rukḥṣah* and thereby earning the reward from God.

ENDNOTES TO CHAPTER THREE

1 *Al-Mizān*, 1:37.

2 *Ibid.*; *al-Qur'ān*, 16:44.

3 *Al-Mizān*, 1:37.

4 *Ibid.*.

5 *Ibid.*, 1:18 and 22; *al-Qur'ān*, 6:38.

6 *Al-Mizān*, 1:46.

7 It is the plural of the word *raka'ah*, which means, "to bow". Technically it refers to a complete unit of a *ṣalāt*. For instance, the *ṣalāt al-ṣubḥ* has two *raka'āt*. Each *raka'ah* consists of:

No.	Postures in one unit of <i>raka'ah</i>	
1	<i>qiyām</i> - standing	
2	<i>rukū'</i> - bowing	└
3	<i>i'tidāl</i> - straightness	
4	<i>sujūd</i> - prostrating	└
5	<i>julūs</i> - sitting	└
6	<i>sujūd</i> - prostrating	└
7	<i>julūs</i> - sitting	└

One may question why the whole unit of actions is called a *raka'ah*, which is derived from the word *rukū'* and not as *sajadah* or *qiyām*, for instance, since *sajadah* is the best apparent form of submission. It is called as such, because in performing a *ṣalāt* as a *masbūq* (late comer), one is considered to have completed a unit of the *ṣalāt*, if he or she joins the congregation before or in the *rukū'* and not after it. For if he were to join the congregation after the *rukū'* (i.e.: standing up from the *rukū'*), he should have to offer another *raka'ah* after the *imām* (prayer leader) concluded the *ṣalāt*.

8 *Al-Mizān*, 1:55.

9 i.e. saying *Allāh Akbar* [God is Great].

10 *Dhikr* means to the remembrance of God, through reciting appropriate phraseology of Divine praise. For details of the various phraseology recited during the *ṣalāt*, see *Hughes*, pp. 464-9.

11 see note 7 above.

12 *Ibid.*.

13 *Ibid.*.

14 i.e.: the reciting of the testimony that there is no God except *Allāh* and Muḥammad is a Messenger of God, while raising the first finger of the right hand. see *Hughes*, p. 468.

15 That is the *ṣalāt al-ʿīdayn*. The first *ʿīd* (festival) is the festival celebrated on the first of *Shawwāl* [name of the tenth month of Muslim calendar] after fasting for a full lunar month. This festival is called as *ʿīd al-fiṭr* [the feast for breaking the *Ramaḍān* fast]. While the second festival is called as *ʿīd al-aḍḥā* [the feast of immolation], celebrated on the tenth of *Dhū al-hijjah* [name of the twelfth month of the Muslim calendar]. This is celebrated to mark Abraham's sacrifice of his son

Ishmael and to note the end of pilgrimage at Ka'bah at Makkah. During these two festival days special two *raka'āt* of *ṣalāt* are performed after the sun rises.

16 They are called as *ṣalāt al-Kushūfayn*. The two eclipses are: (1) Lunar, and (2) Solar.

17 The term *ṣalawāt* is the plural form of *ṣalāt*.

18 It is *ṣalāt* performed during funeral. For this *ṣalāt* there is no bowing and prostration.

19 *ṣalāt* performed for seeking rain.

20 It is one of the plural form of the term *niṣāb* [the minimum taxable amount].

21 That is rules pertaining to marriage. Even though the title bears the name of marriage, under this heading rules pertaining to divorce and other rules pertaining to marital life are also discussed.

22 That is rules pertaining to maintaining and enforcing justice.

23 *Al-Mizān*, 1:55.

24 *Ibid.*, 1:37.

25 *Ibid.*

26 *Ibid.*

27 *Ibid.*

28 *Ibid.*; *al-Qur'ān*, 4:59.

29 *Al-Mizān*, 1:37.

30 *Ibid.*, 1:56.

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

35 He is 'Imrān b Ḥuṣayn b 'Abd Allāh b Khalaf al-Khuzā'i. He was sent to teach *fiqh* in Iraq by 'Umar b al-Khaṭṭāb. He accepted *Islām* in the year of Khaybar and died in Baṣrah in 52 *h*. *Shadharāt*, 1:58.

36 *Al-Mizān*, 1:56.

37 *Ibid.*

38 *Ibid.*

39 *Ibid.*

40 *Ibid.*

41 *Ibid.*, 1:56.

42 *Ibid.*, 1:5.

43 *Ibid.*

44 *Ibid.*

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*, *al-Qur'ān*, 49:14.

48 *Al-Mizān*, 1:5.

49 *Ibid.*, 1:16.

50 *Ibid.*, 1:17.

51 *Ibid.*

52 *Ibid.*

53 *Ibid.*

54 *Ibid.*

55 *Ibid.*, 1:19.

56 *Ibid.*

57 *Ibid.*

58 *Ibid.*

59 *Ibid.*, 1:23-4.

60 *Ibid.*, 1:24.

61 *Ibid.*, 1:18.

62 *Ibid.*

63 *Ibid.*

64 *Ibid.*, 1:27.

65 *Ibid.*

66 *Ibid.*

67 *Ibid.*

68 *Ibid.*, 1:27-8.

69 *Ibid.*, 1:28.

70 *Ibid.*

71 *Ibid.*

72 *Ibid.*

73 *Ibid.*, 1:5.

74 He is Jamāl al-Dīn 'Abd Allāh b Yūsuf b Muḥammad, originally from Zayla' in Somalia and died in Cairo in 762 h. see *Badr*, *op.cit.*, 1:402; *Husn*, *op.cit.*, 1:203; *Khalifah*, p. 1481; *Durar*, *op.cit.*, 2:310; *A'lām*, 4:147; *Kahhālāh*, 6:165-6.

75 *al-Mizān*, 1:35.

76 *Ibid.*

77 *Ibid.*

78 see *GAL*, 1:346; *GALS*, 1:509.

79 *A'lām*, 4:147.

80 It is defined as *al-ḥadīth alladhī ittaṣala sanaduhu bi naql al-'adl al-dābiṭ 'an al-'adl al-dābiṭ ilā muntahāh wa lā yakūnu shādhān wa lā mu'allan* [it is a ḥadīth the chain of which is connected by the narration of a reliable person from a reliable person till its end and it is neither unusual nor defective. see *al-Naqd*, *op.cit.*, p. 242. While al-Jurjānī defines it as *mā salima lafẓuhu min rikākat wa ma'nāhu min mukhālifāt āyat aw khabar mutawātir aw ijmā' wa kāna riwāyah 'adl fī muqābilatihi al-saqīm* [it is that the expression of which is free from weakness and its meaning is free from opposing a āyah or a khabar mutawātir or consensus and being a narration of a reliable person as opposed to al-saqīm [weak]. see *al-Ta'rīfāt*, p. 87. The rule is that it is an obligation to act according to it, irrespective of the number of its narrators. *Ibid.*, p. 244.

81 It is defined as *al-ḥadīth alladhī ittaṣala sanaduhu bi naql 'adl khaffa ḍabṭuhu ghayr shādhin wa lā mu'allal* [it is a ḥadīth the chain of which is connected to a reliable narrator whose accuracy is less without being strange and defective]. see *al-Naqd*, *op.cit.*, p. 264. While al-Tirmidhī defines a ḥasan ḥadīth as "One that has been related by narrators who are not accused of falsehood, provided it is handed down by more than one chain of authorities, and is not contrary to what has been related by other reliable narrators." He classifies it into: (1) *ṣaḥīḥ ḥasan*, (2) *ḥasan* and (3) *ḥasan gharīb*. For detail see *Siddiqi*, *op.cit.*, pp. 66-7. see also Robson, James, "Varieties of the *Hasan* Tradition," in *JSS*, 6 (1961), pp. 47-61.

82 A *da'if ḥadīth* is that which loses any one of the conditions of the acceptable ḥadīth. These conditions are mentioned in the books of ḥadīth.

83 *al-Mizān*, 1:68.

84 *Ibid.*

85 *Ibid.*

86 *Ibid.*

87 *Ibid.*

88 *Ibid.*

89 *Ibid.*

90 It is the plural form of the word *musnad*, which "literally means 'supported', was originally used for such traditions as were supported by complete uninterrupted chain of authorities going back to the Prophet via a companion. Later, however, the term came to be used in the more general sense of a

reliable work of *ḥadīth* literature, so that works like the *Sunan* of al-Dārimī and the *Ṣaḥīḥ* of al-Bukhārī are regularly called as *musnads*. More technically, however, it is reserved for those collections of *ḥadīths* whose material is arranged according to the names of their original narrating authorities, irrespective of the subject-matter". *Siddiqī, op. cit.*, p. 11. It is mentioned that the *musnad* attributed to Abū Ḥanīfah was compiled by Abū al-Mu'ayyad Muḥammad b Maḥmūd al-Khawārizmī. *Ibid.*, p. 44.

⁹¹ *Al-Mizān*, 1:68.

⁹² He is al-Aswad b Shaybān al-Siddūsī al-Baṣrī, died in 65 h. see *Tahdhīb*, 1:339.

⁹³ He is 'Alqamah b Qays b 'Abd Allāh b Mālik b 'Alqamah b Salāmān b Kuhl b Bakr b 'Awf al-Kūfī, died in 62 h. *Ibid.*, 7:276-8.

⁹⁴ He is 'Aṭā' b Abū Rabāḥ Aslam al-Qurashī, born in 27 h. and died in 114 h. see *Ibid.*, pp. 199-203.

⁹⁵ He is 'Ikrimah b Khālid b al-'Āṣ b Hishām b al-Mughīrah b 'Abd Allāh b 'Umar b Makhzūm al-Qurashī, died in Madīnah or Qayrawān in 107 h at the age of eighty. He narrated from Ibn 'Abbās, Ibn 'Umar, Sa'id b Jubayr and others. see *Ibid.*, 7:258-9.

⁹⁶ He is Abū 'Abd Allāh Makhūl b 'Abd Allāh al-Shāmī, born in Kabul and died in 114 h. see *A'lām*, 7:284; *Tadhkirah*, 1:101; *Husn*, *op. cit.*, 1:119; *Tahdhīb*, 10:289; *Hilyat*, 5:177.

⁹⁷ He is Abū Sa'id al-Ḥasan b Yasār al-Baṣrī, a *tābi'ī* born in Madīnah and died in Baṣrah in 110 h. see *Tahdhīb*, 1:254; *Hilyat*, 2:131; *al-Shirāzī*, 91-2.

⁹⁸ *Al-Mizān*, 1:68.

⁹⁹ *Ibid.*

¹⁰⁰ It is defined as *huwa ta'n fī rāwī al-ḥadīth bi mā yuslib aw yakhill bi 'adālatihi aw ḍabḥī* [it is the criticising of the narrator of the *ḥadīth* with that which negates or offends his probity or his meticulousness. see *al-Naqd*, *op. cit.*, p. 92.

¹⁰¹ It is the opposite of *jarḥ*. That is, it is *tazkiyah al-rāwī wa al-ḥukm 'alayhi bi annahu 'adl or ḍabīṭ* [the pronouncement about a narrator or passing judgement on him that he is a man of probity or meticulous].

¹⁰² In the terminology of *ḥadīth* the term *ḥifẓ* or *ḥāfiẓ* refers to a *muḥaddith* (scholar of *ḥadīth*) who has memorised a great number of *ahādīth*. It is said that the term *ḥāfiẓ* is synonymous to the term *muḥaddith*. While some others opined that it is a stage higher than *muḥaddith*. For details see al-Tahhān, Dr. Maḥmūd, *Taysīr muṣṭalaḥ al-Ḥadīth*, 2nd ed., (Beirut, 1979), p. 16.

¹⁰³ *Al-Mizān*, 1:68.

¹⁰⁴ For they also have other collections of *Ṣaḥīḥ ahādīth*. For details see Auliya'ī, Muṣṭafā, "Outlines of the Development of the Science of Ḥadīth," in *Al-Tawhīd*, 1(1983-4):26-37.

¹⁰⁵ He is Abū 'Isā Muḥammad b Sūrah b Mūsā b al-Ḍaḥḥāk al-Sulamī, born around 210 h. and died in Tirmidh in 279 h. see *Kaḥḥālāh*, *op. cit.*, 11:104-5; *Shadharāt*, *op. cit.*, 2:174-5; *Tahdhīb*, *op. cit.*, 9:387-9; *Fihrist*, *op. cit.*, p. 233; *Tadhkirah*, *op. cit.*, 2:187-8.

¹⁰⁶ He is Abū 'Abd al-Raḥmān Aḥmad b Shu'ayb b 'Alī b Sinān b Baḥr b Dīnār al-Nisā'ī, born in Nasā in Khurasān, in 215 h. He died in 303 h. as a result of rough treatment in Damascus. see Robson, James, "The Transmission of Nasa'i's 'Sunan'," in *JSS*, 1 (1956), pp. 38-59. see text on p. 365 no. 62.

¹⁰⁷ He is Abū 'Abd Allāh Muḥammad b Yazīd al-Qazwīnī Ibn Mājah al-Rab'ī, born in 209 h. and died in 273 h. see Robson, James, "The transmission of Ibn Majah's 'Sunan'," in *JSS*, 3 (1958), pp. 129-41.

¹⁰⁸ see al-Laknawī, Abū al-Ḥasanāt Muḥammad 'Abd al-Ḥayy, *al-Ajwibah al-Fāḍilah li al-As'ilah al-'Asharah al-Kāmilah*, ed. by 'Abd al-Fattāḥ Abū Ghaddah, (Ḥalab, 1963), p. 54. Hereafter cited as *al-Laknawī*.

¹⁰⁹ It has been mentioned of al-Bukhārī that he, after having travelled a long distance to collect a *ḥadīth* from a man, saw the man flagging an empty sack to persuade his run away horse to return. Then he decided that since he has deceived an animal, he should not be trusted in respect of any *ḥadīth*, for he might not hesitate to deceive any person in order to achieve his objective. Thus he did not take any *ḥadīth* from that man. see Baqavī, S.S. Abdul Qādir, *Tajrīd Ṣaḥīḥ al-Bukhārī* [Tamil], (Madras, n.d.), p. 3. This incident proves that al-Bukhārī was meticulously careful in collecting the *ahādīth*. But, by so doing he might have left out a great number of *ahādīth*. Just because the man deceived a horse with an empty sack, that does not mean that he is a bad man. For that was the only way he could get his horse back. Moreover it is rather unbefitting on the part of that man to apply

human standard of behaviour in dealing with animals. Likewise there are many instances in the lives of many collectors that they set such measures to check the authenticity of *aḥādīth* they collected. As such there are possibilities that they might have overlooked those from some people and might have narrated weak or fabricated *aḥādīth* from those whom they thought to be of dependable character. It is because of this al-Bayhaqī did not name his collections as a *Jāmi' al-Ṣaḥīḥ* or as *al-Ṣaḥīḥ*.

110 *Al-Laknawī*, *op.cit.*, p. 54.

111 *Ibid.*

112 *Ibid.*

113 *Ibid.*, p. 50.

114 *Ibid.*, pp. 50-3.

115 *Ibid.*, p. 53.

116 *Ibid.*, p. 42.

117 *Mu'jam*, *op.cit.*, p. 1878. It is given as *al-Adhkār al-Muntakhabah min kalām sayyid al-Abrār*.

118 *Laknawī*, *op.cit.*, p. 41; al-Nawawī, Zakariyyā b Yahyā b al-Sharaf, *al-Adhkār*, 3rd. ed., (Cairo, 1371 h.), pp. 7-8.

119 *Al-Mizān*, 1:60.

120 *Ibid.*

121 *Ibid.*, 1:44.

122 For instance, in recent years Nāṣir al-Dīn Albānī is considered an authority in *ḥadīth*. For he has written extensively on *aḥādīth*. Some of the *aḥādīth* which he considered as valid has been found to be weak by other scholars.

123 He is 'Abd Allāh b Mas'ūd b Ghāfil, died in Madīnah in 32 h. see *al-Isābah*, *op.cit.*, 2:368-70. see text on p. 361 no. 5.

124 *Al-Mizān*, 1:106.

125 *Ibid.*, 1:68.

126 *Ibid.*

127 *Ibid.*

128 *Ibid.*

129 It is suggested that he was a Shī'ite who died in 178 h. see *Umayrah*, *op.cit.*, 1:232n2.

130 It is suggested that he is Abū Qudāmah al-Ḥārith b 'Ubayd al-Ayādī. see *Ibid.*, n3.

131 It is suggested that he is 'Abd al-Raḥmān b 'Ubayd b Naṣās al-Sulamī. see *Ibid.*, n4.

132 It is suggested that he is Khālīd b Mukhlad al-Qaṭwānī. see *Ibid.*, p.233n1.

133 It is suggested that he is Suwayd b Sa'īd b Abū Muḥammad al-Harawī, died in 240 h. see *Ibid.*, n2.

134 It is said that he died in 159 h. see *Ibid.*, n3.

135 It is suggested that he is 'Abd Allāh b 'Abd Allāh b Uways al-Aṣbahī, died in 167 h. see *Ibid.*, n4.

136 *Al-Mizān*, 1:68-9.

137 *Ibid.*, 1:69.

138 It is suggested that he is Abū Bisṭām Shu'bah b al-Ḥajjāj al-'Utkī, born in Wāsiṭ and died in 160 h. see *Umayrah*, *op.cit.*, 1:233n6.

139 He is Abū Sufyān b 'Uyaynah born in Kūfah in 107 h. and died in Makkah in 198 h. *Wafayāt*, *op.cit.*, 2:391-3; *Tārikh*, *op.cit.*, 9:174; *Tadhkirah*, *op.cit.*, p. 262; *Hilyat*, *op.cit.*, 7:270; *Tahdhīb*, *op.cit.*, 4:117; *I'tidāl*, *op.cit.*, 2:170. see text on p. 363 no. 38.

140 *Al-Mizān*, 1:69.

141 He is Sharaf al-Dīn Abū Muḥammad 'Abd al-Mu'min Khalaf al-Dimyātī, born in Dimyāt in 613 h. and died in Cairo in 705 h. see *Durar*, *op.cit.*, 2:417-8; *Taghribirdī*, *op.cit.*, 8:705; *Tadhkirah*, *op.cit.*, 4:258-9; *Shadharāt*, *op.cit.*, 6:12; *Badr*, *op.cit.*, 1:403-4; *Husn*, *op.cit.*, 1:202; *Kahhālāh*, *op.cit.*, 6:197.

142 It is the plural of the word *ḥāfiz*. see note 102 above.

143 *Al-Mizān*, 1:69.

144 *Ibid.*

- 145 Ibid.
- 146 Ibid.
- 147 Ibid.
- 148 Ibid.
- 149 Ibid.
- 150 Ibid.
- 151 Ibid.
- 152 Ibid.
- 153 Ibid.
- 154 Ibid.; Latā'if, *op. cit.*, p. 190.
- 155 Al-Mizān, 1:70.
- 156 Ibid.
- 157 Ibid., 1:22.
- 158 Ibid., al-Qur'ān, 6:38.
- 159 Al-Mizān, 1:22.
- 160 Ibid.
- 161 Ibid.
- 162 Ibid.
- 163 Ibid., 1:70.
- 164 See text p. 103.
- 165 Ibid. see also Appendix - Jurisprudential Flow on p. 359-72.
- 166 Al-Mizān, 1:70.
- 167 Ibid.
- 168 Ibid.
- 169 Ibid.
- 170 Ibid.

CHAPTER FOUR

Al-Sha'rānī's attitude towards the *Madhāhib* and the relationship of the Muslims with them

The differences in the deductions of substantive laws from the main sources of *Islāmic* Law resulted in the emergence of various *madhāhib*. These *madhāhib* represent the differences in the perception of the *a'immaḥ* on a rule of law. Thus whoever clings to a particular *madhhab* or a particular *imām* is said to be a *muqallid* of that *madhhab* or that *imām*.

Madhāhib:

In *al-Mizān* al-Sha'rānī discusses *madhāhib* at some length. He defines the *madhhab* of an *imām* as, "what he said and that from which he did not withdraw till he died but not that which has been understood by his disciples from his speech."¹ This is because, al-Sha'rānī maintains that, at times, "the *imām* might not have been pleased with that matter which they (i.e.: his disciples) understood from his speech and he would not have accepted it had they shown the same to him."² Even though the *a'immaḥ* have expressed different opinions on the same matter, all these opinions were in fact due to their witnessing the spring of the *sharī'ah*. Al-

Sha'rānī reiterates that when God gave him the ability to study the spring of the *sharī'ah*, he saw all the *madhāhib* connected with it and saw the *madhāhib* of the four *a'imma* running as streams from the spring.³ In that he saw all the *madhāhib* which are extinct had their stones changed (meaning that their streams had dried) and the longest stream of the *a'imma* is that of Abū Ḥanīfah followed by Mālik which is followed by that of al-Shāfi'ī and Aḥmad b Ḥanbal.⁴ The shortest stream among them is the *madhhab* of Dāwūd which had dried out in the fifth century.⁵ Therefore, al-Sha'rānī interpreted the length of the stream as the length of the period of the *madhhab*.⁶ Moreover, as the *madhhab* of Abū Ḥanīfah was the first of the codified *madhāhib*, it will be the last to dry out.⁷ This is the same opinion as that expressed by *ahl al-kashf*.⁸ Thereafter, when he saw the *madhāhib* of the *mujtahids* and that which branches out from the spring throughout the ages till the period he was in, al-Sha'rānī asserts that he was unable to bring forth even a single opinion of theirs from the *sharī'ah* in order to testify their connections with the first spring of the *sharī'ah*.⁹ This resembles the net of the fishermen as illustrated earlier.¹⁰ For, its first mesh is like the spring of the pure *sharī'ah* and the remaining meshes emanating from it to the last circle (*adwār*) are like the opinions of the *mujtahids* and their *muqallids* till the Day of Resurrection.¹¹ This encompasses the knowledge by the form of the connection of their opinions with the spring of the *sharī'ah*.¹² Here one will be able to see that every mesh is connected to that which is above it till it ends at the first mesh.¹³ When one looks at the status of the *mujtahids*, he will stand at the first spring which his *imām* had looked down upon.¹⁴ He will be taking part with his *imām* in scooping from it, as he was his follower when he was treading on the path despite being veiled from the spring, from where

he took support.¹⁵ Likewise, he will be a follower of his *imām* in scooping from the spring from where he (i.e.: the *imām*) had scooped.¹⁶ At that time, the *muqallid* attains the status and thus becomes a companion in witnessing the first spring and whatever has branched out from it at all periods.¹⁷ Thus, he will begin to focus on all the opinions of the '*ulamā*' and will not refute any opinion, either due to: (1) the validity of the proofs of every one of them with him through a *takhfīf* or a *tashdīd*, or (2) his witnessing the validity of their deductions and their connections with the spring of the *sharī'ah*.¹⁸

Al-Sha'rānī praises God for making him among those who studied the speeches of all the '*ulamā*' of the *sharī'ah* and did not refute anything from them due to his witnessing the connection of all their opinions with the spring of the *sharī'ah*.¹⁹ In support of this al-Sha'rānī quotes the *hadīth*:

My companions are like stars, (so) whoever among them you follow, you are (rightly) guided.²⁰

Even though the *mujtahids* are not the subject of this *hadīth*, it is nevertheless "considered by the *ahl al-kashf* as valid with regard to them."²¹ Further, al-Sha'rānī maintains that the *mujtahids* are of the status of the *ṣaḥābah*, since "a *mujtahid*, through his chain of narration, is connected with a *ṣaḥābī*."²² However, according to al-Sha'rānī, some '*ulamā*' gave precedence to the speech of the *mujtahids* who were not among the *ṣaḥābah* over the speech of any one of the *ṣaḥābah*, despite the fact that the *mujtahids* developed from the *ṣaḥābah*.²³ This is because, since the *mujtahids* came later in time than the *ṣaḥābah* it is therefore, possible for them to encompass the knowledge of all the opinions of the *ṣaḥābah* or the majority of them.²⁴ It is on this basis that al-Sha'rānī

argues against the accusations levelled against Abū Ḥanīfah, that the latter gave preference to *qiyās* over the *ḥadīth*.²⁵ Al-Sha'rānī denies this accusation by saying that the *aḥādīth* were collated and compiled after the demise of Abū Ḥanīfah.²⁶ He had to rely on his power of deduction in arriving at religious solution. However, during the time of al-Shāfi'ī and Aḥmad b Ḥanbal, there were many compilations of *aḥādīth* which had caused a considerable difference in their deductions, as they relied mostly on *aḥādīth* to corroborate their opinions. Thus, according to al-Sha'rānī, the later *mujtahids* are more informed than the earlier ones. This however should not lead one to think that the *ṣaḥābah* are lower in status than the later *mujtahids*. For there can be no comparison in this respect. The status of the *ṣaḥābah* is unique in the sense that they were the contemporaries of the Prophet as such they were able to witness the events surrounding every revelation. This position has not been attained by any of the *a'immaḥ* nor by the *mujtahids*.

Al-Sha'rānī does not consider one who made it obligatory on the *mukallaḥs* to confine themselves to only one *madhhab* as having oppressed them and caused inconvenience for them.²⁷ This is because, he says, "there is no difficulty in reality, for the master of the *madhhab* did not opine the forceful thrusting (*ilzām*) on the weak to perform the *'azīmah*, nay he would have permitted him to go out from his own *madhhab* to the *rukḥṣah* which was opined by those other than him."²⁸ Thus, the *madhhab* of this *imām* returns to the two sides of the *sharī'ah*.²⁹ There is, "no oppression nor difficulty on one who clings to a particular *madhhab*."³⁰ Therefore, al-Sha'rānī maintains that, if the *mukallaḥ* did not understand the *sharī'ah* in this way, "he has not understood it."³¹ Similarly, if he did not establish the *madhāhib* of the *mujtahids* like this,

then "he has not established it at all."³² It was not valid for the *muqallid* to believe that all the *a'immah* of the Muslims are guided by their Lord, while his opinion was opposed to what was in his heart.³³ That will be counted as "an attribute of hypocrisy."³⁴

Al-Sha'rānī was accused by some jealous people that, in his balance, there is an attribution of falsity to all the *mujtahids* in the sense that every *mujtahid* will not opine according to the opinions of others, since there may be mistakes in their deductions.³⁵ This would lead to accusing all the *mujtahids* of committing mistakes.³⁶ In reply to the above accusation, al-Sha'rānī says that the people had reached consensus (*ijmā'*) that a *mujtahid* will never blame another *mujtahid*.³⁷ This is because every one of them considers it a necessity to act according to what appears to him as truth.³⁸ Layth b Sa'd, according to al-Sha'rānī, sent a question to Mālik, questioning him about a particular religious issue, so Mālik wrote to him:

You, O, my brother are indeed a guided *imām* and the rule of God in respect of this issue is what is found in you,³⁹

meaning that the deduction of Layth is also true, since he too studied the first spring of the *sharī'ah*. Further, al-Sha'rānī argues that if Layth had not studied the spring of the *sharī'ah*, it would become "wājib on Mālik to criticise Layth."⁴⁰ However, it is probable that whoever accuses or criticises others for committing mistakes among the *a'immah*, would have done that "before he attained the position of *kashf*."⁴¹ It is in this situation many people fall, due to their inexperience in witnessing the spring of the *sharī'ah*. Such a person will not differentiate between what an *'ālim* said during his earlier, middle and last days.⁴² For instance, al-Shāfi'ī first studied in the Hījāz under Mālik, later moved to Baghdād and came under the influence of the Ḥanafites and then changed his opinions when he went

to Egypt. It is due to this that al-Shāfi'ī has sometimes differed greatly from his earlier opinions. Therefore, according to al-Sha'rānī's suggestion, a clear understanding of these facts is essential for the validity of this balance and the *madhāhib* of the *mujtahids* in order for the *shārī'* to establish the rules of these *madhāhib*. Thus the perfect ones among the *awliyā'* need not necessarily limit to acting according to one particular opinion while undermining the validity of other opinions.⁴³ The probable reason for his not acting according to another opinion might be his incompetence to comply with it, irrespective of that other opinion being '*azīmah* or *rukḥṣah*.'⁴⁴ This is because, as mentioned earlier, the *kāmil* "sees the replenishment of both the extinct and the existent *madhāhib* from the spring of the *shārī'ah*."⁴⁵ Thus, all those opinions which are not acted upon due to the incompetence of the *mukallafs* will be like "an abrogated *ḥadīth*, while the other is like the *muḥkam ḥadīth*."⁴⁶ Quoting his master 'Alī al-Khawwāṣ, al-Sha'rānī says:

Act according to all the opinions of the *a'immaḥ* (on the external form of which there may be disagreement with one another) when the conditions of performing it are in agreement, so that you will attain the complete reward. So where is the status of one who acts according to the totality of the *shārī'ah* from one who rejects most of it and does not act according to it, when one *madhhab* (alone) will never embrace all the proofs even if the adherent of it said in totality: "if the *ḥadīth* authenticates (the truth of the opinions) then it is my *madhhab*", but perhaps his followers abstain from acting according to many *ḥadīth* which had been validated after their *imām*, however that was against the intent of their *imām*.⁴⁷

On the basis of the fact that the *mukallafs* had followed the *shārī'ah* of the Prophet Jesus, which was later abrogated by the *shārī'ah* of the Prophet Muḥammad, the '*ulamā'* and the *kāmil* among the *muqallids* too act according to an opinion for a period in time, thereafter there appears to them another opinion which is more valid as a proof than the first one. They act according to the second one while abstaining from the first one.⁴⁸

They consider the first opinion as an abrogated *ḥadīth*, even though their predecessors had worshipped according to that first opinion for a period and had issued *fatawā* to people according to it till they passed away.⁴⁹ According to al-Sha'rānī, none should be asked to "worship according to that old opinion."⁵⁰ This is because, if God had intended that His servants worship Him through another law, He would have made preference for it appear to their '*ulamā*'.⁵¹ From what has been established above, it becomes clear that it is not essential for the *kāmil* to abstain from acting according to an opinion just because he considers it as outside the *sharī'ah* since the abandoned opinion will be a *rukḥṣah* or an '*azīmah*'.⁵²

As for the *muqallids* who have studied the spring of the *sharī'ah*, they are, likewise, "not commanded to confine to one particular *madhhab*, as they are able to see the connection of all the valid and weak opinions of the *a'imma*h with the greater *sharī'ah*."⁵³ However, when any one of the *muqallids* shows that he is confined to one particular *madhhab*, then that is because, he, "is among those who fall in either of the two categories of *takhfīf* and *tashdīd*."⁵⁴ That is, he might perhaps be among those, "who act voluntarily according to the most prudent *madhhab* in respect of the religion, thereby attaining higher degree of obedience to God."⁵⁵ In this respect, al-Sha'rānī quotes Abū Ḥanīfah as saying that whatever is narrated from the Prophet, he holds it "dear,"⁵⁶ while that which is narrated from the *ṣaḥābah* he is selective about. On the other hand, whatever is narrated from those other than the *ṣaḥābah*, Abū Ḥanīfah says, "they too are men and we are also men,"⁵⁷ meaning that the *muqallid* could exercise his choice in respect of the *madhāhib* without there being any obligation.

Ibn 'Abd al-Barr,⁵⁸ according to al-Sha'rānī, used to say that none of the *a'imma* had commanded his disciples to cling to a particular *madhhab*, the validity of the opposite of which he did not opine.⁵⁹ In fact they encouraged the people to practise according to the *fatwā* issued by one another, since all of them are guided by their Lord.⁶⁰

Regarding the *mukallafs* moving from one *madhhab* to another, al-Sha'rānī says that it is permitted by the mere fact that the '*ulamā*' in every age were "not critical of one who did such a move."⁶¹ This is because, all the *madhāhib* are "paths to heaven."⁶² As such all those who followed a path among them will be led to *sa'ādah*⁶³ and heaven. However, some '*ulamā*' allowed it in exceptional cases only. For instance, al-Sha'rānī quotes *imām* al-Zanātī⁶⁴ as saying that a *mukallaf* is allowed to follow any *a'imma* of the *madhāhib* "during epidemics,"⁶⁵ meaning that in normal circumstances the *mukallaf* is not allowed to move from one *madhhab* to another. Al-Sha'rānī does not seem to answer whether such a move is an instance of *ḍarūrah* or not. For, if it is a *ḍarūrah*, then there is no need for the *mukallaf* to move to another *madhhab*. Instead he could act according to the prohibition, basing his argument on the maxim *al-ḍarūrāt tubīḥ al-maḥẓūrāt* [necessity renders the unlawful lawful].⁶⁶ In the above case of an epidemic, if the *mukallaf* was to drink alcohol as medicine, it is counted as an incident of *ḍarūrah*. However, if he was to act according to the opinions of another *madhhab*, where the drinking of alcohol is not considered as *ḥaram*, then he is considered to have limited his departure to *ḍarūrah*, since there is a "permission" in the other *madhhab*. Discussing the issue of alcohol, al-Sha'rānī quotes the opinions of the *a'imma* both in favour of and against its consumption. For Abū Ḥanīfah is of the opinion that when one is

compelled by thirst or cure, one can consume it.⁶⁷ This is also an opinion of al-Shāfi'ī.⁶⁸ However, the valid opinion of al-Shāfi'ī is the absolute prohibition.⁶⁹ Whereas, in another opinion attributed to him, al-Shāfi'ī is of the opinion that alcohol is allowed to be drunk when without drinking it the person would die of thirst, but not as a medicine.⁷⁰ The first opinion, according to al-Sha'rānī, is *mukhaffaf*, while the second is *mushaddad*.⁷¹ The third opinion, on the other hand, is *mufaṣṣal*.⁷² Thus all these three opinions return to the two sides of the balance. The reason for the first opinion is the maxim *al-ḍarūrāt tubīḥ al-maḥẓūrāt*, as quoted above. The reason for the second opinion is that God had prohibited the consumption of alcohol by not clearly stating the permissibility of consuming it for quenching one's thirst or as medicine.⁷³ Therefore, the *mukallafs* should abstain from drinking it or drink it without considering as permitted (*mubāḥ*) while repenting and seeking forgiveness from God.⁷⁴ It is valid to predicate *al-ibāḥah* on the state of the *aṣāghir* while predicating *al-mana'* on the state of the *akābir*.⁷⁵ The reason for prohibiting its use as a medicine without prohibiting it for quenching the thirst is the saying of the Prophet:

Verily God did not make the cure of my *ummah* in something which He had prohibited for them.⁷⁶

Continuing the discussion on the *madhāhib*, al-Zanātī says that, in moving from one *madhhab* to another, the *mukallaf* should adhere to the following conditions:⁷⁷

(1) he should not combine the *madhāhib* in such a way that it would conflict with *ijmā'*. For instance, he should not get married without the *sadāq*, *walī*⁷⁸ and witnesses.⁷⁹ This form of marriage has not been opined by any one of the *a'immaḥ*. However, al-Sha'rānī quotes the three

a'imma as having opined that when a man said "so and so is my wife" and she testified it as truth, then marriage is established between them by their mutual agreement.⁸⁰ Whereas, Mālik is of the opinion that it will not be established till he is seen going in and out from her (presence), except if he is on a journey.⁸¹ This, however, should not be taken to mean that there is a licence to make such a public display. Perhaps, the couples might be strangers, therefore others should not investigate into the nature of their relationship.

(2) he should believe that the other *madhhab* which he follows has preference according to the information available to him.

(3) he should not follow another *madhhab* while he is ignorant of his religion, just like his following the *rukḥṣah* without its conditions. This means that only people falling under this category can act according to the *rukḥṣah*.

Further, al-Sha'rānī does not explain when a *muqallid* should move to another *madhhab*. That is, is a *muqallid* allowed to move to another *madhhab* when in his own *madhhab* there is a *rukḥṣah* by which he could act? This *rukḥṣah* could be in the form of opinions of those other than his *imām*. Perhaps, the author might have considered this prior to his approval of a *mukallaf*'s moving from one *madhhab* to another. However, al-Sha'rānī mentions that in the opinion of al-Qarāfī, it is permissible to move from all the *madhāhib*, from one to another, in respect of everything in which the judgement of a judge will not be invalidated⁸². This invalidation occurs in one of the following four occasions:⁸³

- (1) in opposing the *ijmā'*
- (2) in opposing the *naṣṣ*
- (3) in opposing the clear-cut *qiyās*, or
- (4) in opposing the *qawā'id*

There were people who had moved from one *madhhab* to another. They include great men of *Islām* like 'Abd al-'Azīz b 'Imrān al-Khuzā'i,⁸⁴ Sayf al-Dīn al-Āmidī,⁸⁵ Ibn Fāris,⁸⁶ Khaṭīb al-Baghdādī,⁸⁷ Abu Ja'far al-Taḥāwī,⁸⁸ Najm al-Dīn b Ḥalaf al-Maqdisī,⁸⁹ and others. These names were included in the list of '*ulamā'*' whom al-Suyūṭī mentions among those who have moved from one *madhhab* to another.⁹⁰ This moving between *madhāhib* may be for religious or worldly needs. Further, it can be done by both the '*ulamā'*' and the ordinary people ('*awwām*'). According to al-Sha'rānī, he has seen a manuscript by al-Suyūṭī permitting such according to the following conditions:⁹¹

(1) the moving might have been motivated by worldly considerations such as the acquisition of a job or emolument or nearness to the king or the dignitaries of the world. The rule is like the rule of Muhājir Umm al-Qays,⁹² because it was the most preferred of his goals.

(2) an ordinary person ('*āmmī*') may move for worldly considerations. He is not a *faqīh* and has nothing of the *madhāhib*, except in name, just like most of the practitioners, government officials, their servants and the attendants in the *madāris*.⁹³ In such cases moving is not blameworthy, because at this time he is an '*āmmī*' who does not have a *madhhab*. He is like one who has newly accepted *Islām*. Therefore, it is up to him to adhere to any of the *madhāhib* he wishes.

(3) A *faqīh* may move for worldly considerations. This is blameworthy. Such moving is forbidden, as it is tantamount to playing with the rules of the *sharī'ah* for worldly aims. Further, his moving from his *madhhab* to another depicts his disbelief in his *imām* being guided by God. For, if he had believed that, he would not have moved from his *madhhab*. Al-Suyūṭī describes a scholar switching from one *madhhab* to another in order to achieve worldly position. He says about a certain Muḥammad b al-Dahhān al-Naḥwī⁹⁴ that he was a Ḥanbalī who became a Shāfi'ī. When the *khalīfah* sought a grammarian to teach his son the grammar, he became a Ḥanafī. Then, when a position to teach grammar at Nizāmiyyah⁹⁵ became vacant and the owner insisted on the teacher being a Shāfi'ī, Ibn al-Dahhān returned to the *madhhab* of al-Shāfi'ī, since there was no one who was more knowledgeable than him in *fiqh* and *naḥw*. However, al-Suyūṭī argues that though the aim of Ibn al-Dahhān might seem worldly, it was in fact a religious obligation on him to teach the subjects since he was the sole authority on them. It was a *fard 'ayn* for him.

(4) A *faqīh* may move for religious considerations. This is due to his conviction that the *madhhab* to which he has moved is preferable. In such cases the moving of the *faqīh* is either obligatory or permissible, just like the moving of the people to the Shāfi'ī *madhhab* from Mālikī *madhhab* when al-Shāfi'ī arrived in Egypt.

(5) A *mukallaf* may move for religious considerations. This could happen from one who is ignorant of *fiqh* and may wish to change his *madhhab* in the hope that by adhering to the new *madhhab* he might understand more. In this case it becomes obligatory for him to move to

the other *madhhab*. For, to abandon one's original *madhhab* is better than to stay in ignorance, as nothing remains in him except the name. Further, to stand firm on ignorance is a great defect in the believer, so that the validity of his *'ibādah* will be little. To this category belongs al-Ṭaḥāwī. For, according to al-Suyūṭī's statement, al-Ṭaḥāwī was a Shāfi'ī studying under his maternal uncle al-Muzanī. One day he found the lesson difficult to understand, therefore he moved to the *madhhab* of Abū Ḥanīfah. Then he composed a great work on *al-ma'ānī* and *āthār*.⁹⁶

(6) A *mukallaf* may move to another *madhhab* without either worldly or religious considerations. This is permitted for the *'āmmī*, but forbidden for the *faqīh*, since the latter will be wasting his time in studying the other *madhhab*.

Thus, it can be seen that there is flexibility in moving from one *madhhab* to another according to the status of the *mukallaf*. However, there are differences in the manner of changing from one to another. To what extent can one change *madhhab*? Is it in its entirety or on particular issues only? Al-Sha'rānī again fails to answer this, except that he cites the writer of *Jāmi' al-Fatāwā al-Ḥanafīyyah*⁹⁷ as having said that it is permissible for a Ḥanafī to become a Shāfi'ī and vice-versa, but this must be done completely.⁹⁸ As for only a single matter, it is not possible.⁹⁹ For, he maintains that, it will be like permitting a Ḥanafī, from whose body blood is flowing, to perform *salāt* without cleansing himself, following the *madhhab* of al-Shāfi'ī.¹⁰⁰ If he performs the *salāt* his *salāt* will be invalid.¹⁰¹

Further, al-Sha'rānī says that according to some '*ulamā*', it is not permitted for an ordinary person to move from one *madhhab* to another even if he is a Ḥanafī or a Shāfi'ī.¹⁰² However, this is not the popular opinion. There are some, according to al-Sha'rānī, who maintain that it is permissible for a Shāfi'ī to move to the *madhhab* of Abū Ḥanīfah but not vice-versa.¹⁰³ This opinion is rejected by al-Suyūṭī.¹⁰⁴ Al-Sha'rānī adds, "Our '*ulamā*' have made us understand that they were not vehement in disapproving one who was a Mālikī, then practising as a Ḥanafī or a Shāfi'ī, then changing to be a Ḥanbalī, and afterwards returning to the *madhhab* of Mālik."¹⁰⁵ However, they displayed their disapproval only of one who moves from one *madhhab* to another under the "misguided delusion of playing with the *madhāhib*."¹⁰⁶ On the other hand, al-Rāfi'ī¹⁰⁷ and al-Nawawī permitted it.¹⁰⁸ In his *al-Rawḍah*,¹⁰⁹ al-Nawawī says, "It is necessary for a *muqallid* to exercise *ijithād* in seeking the most knowledgeable *madhhab* while if in his thought the other *madhhab* is more knowledgeable, then it becomes *wājib* for him to follow the other *madhhab*."¹¹⁰ It is just like "following, in respect of the *qiblah*, this direction for some days and this other direction for some other days."¹¹¹

Al-Sha'rānī argues that if the '*ulamā*' of the *salaf* did not have the knowledge that the *sharī'ah* encompasses all the *madhāhib*, they would have disapproved of a *mukallaf* moving between the *madhāhib*.¹¹² This knowledge of the *salaf* is derived from their studying the spring of the *sharī'ah* and their witnessing the connection of all the *madhāhib* with it.¹¹³ Even their silence on the above matter is an indication of their belief in the validity of the speech of the *a'immaḥ*.¹¹⁴

Concerning a *mukallaf* moving between the *madhāhib* at the present time, al-Shaʿrānī says that since the later *imāms* of the *madhāhib* have permitted it, then to consider such moving as bad is "pure stubbornness."¹¹⁵ This is because, al-Shaʿrānī maintains that "the *aʿimmah* are the same in respect of the truth."¹¹⁶ Therefore, "no *madhhab* is better in the *sharīʿah* than the other."¹¹⁷ When al-Suyūṭī was asked by a Ḥanafīte about the permissibility of a *mukallaf* moving to the Ḥanafī *madhhab*, when it is not permitted for a Ḥanafī to move to any other *madhhab*, he said, "It is a judgement from one who speaks without evidence from the Book or the *sunnah*, and we have received neither a valid tradition nor a weak judgement in its favour."¹¹⁸

Continuing the above argument, al-Suyūṭī says that it is forbidden for a *mukallaf* to move from a *madhhab* which is earlier in time to a *madhhab* which is later than it.¹¹⁹ For instance, a Shāfiʿite moving to the Mālikī *madhhab* and a Ḥanbalite moving to the Shāfiʿī *madhhab* is permitted but not the other way round.¹²⁰

Taqlīd and the Muqallid

Even though the aim of al-Shaʿrānī in his *al-Mizān* is to discourage blind following (*taqlīd*) of an *imām* or a *madhhab*, he nevertheless makes it obligatory for the ordinary people to adhere to a particular *madhhab*. He explains Aḥmad b Ḥanbal's statement, "Do not follow me nor follow Mālik, nor al-Awzāʿī nor al-Nakhaʿī¹²¹ nor anyone else, instead take the rules from where they took them,"¹²² by saying, "This is predicated on one who has the ability to deduce the rules from the Book and the *sunnah*."¹²³ The author cautions the *mukallafs* not to be satisfied with

taqlīd, for he says, "That is blindness in respect of sight."¹²⁴ As far as the ordinary person is concerned, it is "*wājib* on him to follow (*taqlīd*), for if not he might go astray in respect of his religion."¹²⁵ The extent of *taqlīd* of an *imām* or his *madhhab* is that whenever his *imām* is praised by others, it is obligatory on him to exalt those who praise his *imām*.¹²⁶ Likewise, "If the *imām* of a *madhhab* praised an *‘ālim*, it becomes obligatory on all his followers to praise him, following their *imām*."¹²⁷ This is because, "Every *muqallid* has made it obligatory on himself to follow him in respect of all that he opined, irrespective of whether he understands his proof or not, without seeking any proof."¹²⁸ However, in following a man, one should not be blind to such an extent that if the former believes the latter also believes, and if he disbelieves the latter too disbelieves.¹²⁹ Because this would mean that one followed the other who is not a believer.¹³⁰ This is against the spirit of *Islām*.

Scholars have expressed their disapproval of *taqlīd*. For instance, al-Sha‘rānī states that Dāwūd al-Zāhirī used to say that one should reflect on a matter of *dīn*. This is because, "*Taqlīd* of those other than the *ma‘ṣūm* (impeccable)¹³¹ is blameworthy and in that there is blindness."¹³² Al-Zāhirī exemplifies this point by saying, "It is a shame on one who was given a candle by which he could seek light, to extinguish it and walk by depending on something else for direction, whereas God knows best that it is needless for one who is capable of (exercising) *ijtihād* to follow others despite having the ability to ponder over the proofs and to deduce that rule from it."¹³³

Al-Sha‘rānī warns the *muqallids* not to cling fanatically to their own *imām* "with the fervour of the *jahiliyyah* without any proof."¹³⁴ For

that would be "to transgress the path of righteousness."¹³⁵ The first one to free himself from the *muqallids* on the day of resurrection will be their *imām*.¹³⁶ Scholars like *imām* al-Haramayn,¹³⁷ al-Sam'ānī,¹³⁸ al-Ghazzālī, al-Kiyā al-Hirāsī¹³⁹ and others, according to al-Sha'rānī, used to say to their students, "It is obligatory for you to confine yourself to the *madhhab* of your *imām* al-Shāfi'ī."¹⁴⁰ There is "no excuse for you with God in abandoning it."¹⁴¹

Further in reply to a *muqallid* who argues that the *sharī'ah* has come on one side only and that is what his *imām* holds, while attributing probability to the rightness of the opinion of others, saying that when the *muqallid* acts according to the opinions of others, in the absence of his *imām*'s opinion, it will be said to him, "has the *madhhab* of your *imām* become invalid when you were acting according to the opinion of those other than him?"¹⁴² In other words, "is the *madhhab* of others valid or does your *madhhab* remain valid when you were acting according to the opinions of others?"¹⁴³ Al-Sha'rānī says that perhaps the *muqallid* will never find any correct answers for these questions.¹⁴⁴ In this respect he quotes 'Alī al-Khawwāṣ as saying:

It will never be complete for a believer to act according to the *sharī'ah* as a whole while being a follower of one *madhhab* (alone), even if the master (of that *madhhab*) said: "if the *ḥadīth* is valid then it is my *madhhab*". (This is because), the *muqallid* would certainly have abstained from acting according to many of the *aḥādīth* which are valid with those other than his *imām*. This (attitude) of that *muqallid* is (an indication of) blindness in his insight in respect of (following the) path of this balance, and that he did not understand the speech of his *imām*...if his *imām*...had said about himself that he knew the status of the textual evidence (*naṣṣ*) of the Messenger...from everyone, he...certainly would have said: "if the *ḥadīth* is valid, that is after me, then it is my *madhhab*."¹⁴⁵

He also quotes his master 'Alī al-Khawwāṣ as saying that it is obligatory on the *muqallid* to confine to a *madhhab* as long as he has not

attained the ability to witness the first spring of the *sharī'ah*, fearing that he might fall into error.¹⁴⁶ Likewise, it is obligatory on him at that time to act according to the practice of the people.¹⁴⁷ However, if he attains the ability to witness the spring of the *sharī'ah*, then there is no obligation on him to confine himself to a *madhhab* since he will see the connection of all the *madhāhib* of the *mujtahids* with it.¹⁴⁸

Moreover, he will also participate with the *mujtahids* in scooping from the spring of the *sharī'ah*, thereby gaining his freedom from *taqlīd*.¹⁴⁹ Even though he will be freed from the *taqlīd* of all the '*ulamā*', he nevertheless will not be free from following (*taqlīd* of) the Prophet.¹⁵⁰ By this al-Sha'rānī says that there are two kinds of *taqlīd*: (1) the greater *taqlīd*, which is the following of the Prophet by all the *mukallafs* irrespective of their status in respect of *īmān*, *islām* and *iḥsān*. In this both the learned and the masses are included. Thus to claim that there is no need to follow the Prophet, since God is able to guide His servants through *kashf* and other means, would result in departure from the religion. (2) the lesser *taqlīd*, which is the following of the *a'immaḥ*. This is meant for the common people who did not attain the status of *ijtihād* to deduce laws directly from the sources.

Replying to a question on the *taqlīd* of the *a'immaḥ* by some *awliyā'*, al-Sha'rānī says that even though a perfect *walī* will not be a *muqallid*, since he takes his knowledge from the spring from where the *mujtahids* took their *madhāhib*, it is possible that "a *walī* did not attain the status of perfection"¹⁵¹ or perhaps he might have attained it but "his limitation in respect of a particular issue makes him adopt the *madhhab* of some of the *a'immaḥ*, as a mark of respect to the *īmām* of the

madhhab.¹⁵² At times it might seem as though the action of the *walī* is in conformity with the opinion of a *mujtahid*. This is not due to what the *walī* had studied of the *mujtahid*'s proofs instead he had agreed to the *mujtahid*'s opinion according to "what his *kashf* had indicated."¹⁵³ Therefore, the *taqlīd* of the *walī* is to the *shārī*' and not to anyone else;¹⁵⁴ that is, there is no *walī* who takes his knowledge except from the *shārī*'. It is considered *ḥarām* for him to take a step on a thing on which he does not see that his Prophet has preceded his *imām*.¹⁵⁵ Al-Sha'rānī then asked his master 'Alī al-Khawwās about the validity of 'Abd al-Qādir al-Jilī and Muḥammad al-Ḥanafī al-Shādhilī¹⁵⁶ following Aḥmad b Ḥanbal and Abū Ḥanīfah respectively. In reply 'Alī al-Khawwās said:

That might have been before they attained the status of perfection thereafter, when they had attained it, the people attached that nickname in respect of them, whereas they had (already) gone away from *taqlīd*.¹⁵⁷

On the obligation of one who has been veiled from examining the first spring of the *shārī'ah* to be restricted to one specific *madhhab*, al-Sha'rānī states, "It is *wājib* on him to do that, so that he himself does not go astray and cause others to go astray."¹⁵⁸ Therefore, al-Sha'rānī urges the reader to excuse those who practise *taqlīd* and who have been veiled from witnessing the first spring. Such people maintain that the correct view is the one which their *imām* has opined and the rest are mistaken in interpreting the correctness of the problem in which there is dispute.¹⁵⁹ As such the view of all those who maintain that, "every *mujtahid* is correct" should be accepted on the basis that he (i.e., the *mujtahid*) is "one who has finished his journey, and left behind *taqlīd* and has witnessed all the 'ulamā' scooping their knowledge from the spring of the *shārī'ah*."¹⁶⁰ Regarding the one who opined that the correct is only one, irrespective of

the personality of the *mujtahid*, while the remaining are wrong, al-Sha'rānī suggests that such an opinion should be accepted on the basis of the fact that he is someone "who has not finished his journey."¹⁶¹ One "should not prefer one to the other."¹⁶²

Al-Sha'rānī deals with the problem raised by the position of a *walī* who disengaged from *taqlīd* and saw all the *madhāhib* as equal in respect of validity, for all of them are scooped from the same ocean of *sharī'ah* by way of *kashf* and *yaqīn*, yet still commands his *murīd* to cling on to a particular *madhhab* which he has not opposed. He says that "he will only do it to the student out of mercy so as to make the path easier for him to continue the journey in one *madhhab*."¹⁶³ He will reach the spring of the *sharī'ah* at which his *imām* stood and from where he took his *madhhab* in the shortest possible time.¹⁶⁴ This is because it is of the nature of the *mujtahid* not to build his own opinion based on another *mujtahid*'s opinion, even though his *madhhab*'s validity is accepted as preserving the hearts of its followers from disruption.¹⁶⁵ Al-Sha'rānī exemplifies the rule pertaining to one who confines himself to a *madhhab* for some time and thereafter to another *madhhab* for some time and so on with the rule of one who travels intending thereby to reach a particular distant place.¹⁶⁶ When the latter reaches one-third of the path his *ijtihād* directs (*addā*) him to (the fact) that if he had followed the path to his destination through such and such a route he would have been closer than the present route. So he returns from his journey with the intention of beginning his journey anew by another path. Then when he reached one-third of it, his *ijtihād* again directs him to yet another path which would also take him closer to his destination. So he did as he had done previously and so on. Thus, this behaviour would perhaps exhaust his entire life in journeying. He would

not reach his particular destination which is the spring of the *sharī'ah* which his *imām* or their disciples have reached, on the basis of the fact that, in the student's changing from one *madhhab* to another, there is a calumny against the right of that *imām* from whose *madhhab* he has changed. If the student believed in the validity of this belief that all the *imāms* of the Muslims are guided by their Lord, he should not have sought to move from one *madhhab* to another.¹⁶⁷ Rather, he should have borne witness to the fact that every *madhhab*, by which he acted and confined himself to, would have brought him to the Door of Heaven.¹⁶⁸ In this respect, al-Sha'rānī quotes his master 'Alī al-Khawwās, as saying that the 'ulamā' of the *sharī'ah* command the student to cling on to a particular *madhhab* just as the 'ulamā' of *yaqīn* command their *murīd* to cling on to one *shaykh* (mentor) to bring him closer to the path.¹⁶⁹ The example of the spring of the *sharī'ah* or the Presence of the Knowledge of God, is compared (*mithāl*) to the palm of a hand while the example of the *madhāhib* of the *mujtahids* and the paths of the spiritual mentors are like those of the fingers of a hand and the example of the period of involvement with any *madhhab* or a path of any *shaykh* is like the knuckles of the fingers. Whoever wishes to reach the palm should go down the finger until he reaches the knuckles of the fingers.¹⁷⁰ Thus according to 'Alī al-Khawwās, "every three knuckles of the fingers are in the position of the student reaching the one-third of the path towards the spring of the *sharī'ah* or the spring of *ma'rifah*"¹⁷¹ which had been exemplified as the palm of the hand. Then, if the period of journey of the *murīd* or the student in the *'ibādah* is three years, he should reach the spring of the *sharī'ah* or the Presence of the Knowledge of God.¹⁷² On the other hand, if he confines himself to one *madhhab* or a *shaykh* for a

year or so, and then goes to another for a further year and then to another for yet another year, he will deny himself the possibility of reaching his goal.¹⁷³ However, if he had spent the three years under one *shaykh*, he would certainly have made him reach the spring of the *sharī'ah* or the Presence of the *ma'rifah* of God.¹⁷⁴ At that time he becomes on a par with the leader (*ṣāhib*) of his *madhhab* in respect of knowledge or with his *shaykh* in respect of *ma'rifah*.¹⁷⁵ Therefore, it is not valid for a *mujtahid* or a *shaykh* to build on the *madhhab* of another or on the path of another.¹⁷⁶ This, according to al-Sha'rānī, is like staying for the period of his journey of three years in the first knuckle of the fingers which stands for a third of his spiritual path.¹⁷⁷ If he had continued with one *shaykh* he would have certainly attained his goal and would have stood before the greatest spring of the *sharī'ah* and would have truthfully acknowledged all the *madhāhib* which are connected to it.¹⁷⁸

Al-Sha'rānī quotes an interesting passage from al-Qarāfī¹⁷⁹ in which the latter has cited the consensus of the *ṣaḥābah* on one who sought *fatwā* from Abū Bakr and 'Umar and followed them: that it was allowed for such a person to seek *fatwā* from someone else among the *ṣaḥābah* and act according to the new *fatwā* without any disapproval.¹⁸⁰ Further, al-Sha'rānī states that the '*ulamā*' have reached consensus that one who newly embraced *Islām* may follow whoever he wishes from the '*ulamā*' without any proof.¹⁸¹

Thus, it can be seen from what al-Sha'rānī has explained above, that there is no need for the *muqallid* to follow any of the *a'immaḥ*, if he participates with them in witnessing the spring of the *sharī'ah*. However, if the *muqallid* has not attained the status of witnessing the *sharī'ah*, it is

obligatory on him to follow an *imām* so that he may be rightly guided. On the other hand, if the *muqallid* followed the *sulūk*, his spiritual mentor would make him reach the spring of the *sharī'ah*, without having to read the works of all the *a'immaḥ*, since he becomes capable of witnessing the reality of their scooping their opinions from it, through his *kashf*.

Therefore, according to al-Sha'rānī, none has criticised any opinions of the *a'immaḥ*, except due to his own ignorance concerning the proof or the subtlety of the *a'immaḥ*'s understanding of it.¹⁸² Further, al-Sha'rānī says that all the *madhāhib* of the *a'immaḥ* are "inscribed on the Book and the *sunnah* like the inscription of gold and pearl".¹⁸³ Their opinions and their *madhāhib* are like the cloth woven from the Book and the *sunnah*, both its (i.e.: the cloth's) warp (*sudah*) and weft (*laḥmah*) are from them. As such, there should be no inconvenience for the *muqallid* to follow any of the *madhāhib*, since all of them are paths to heaven and all the *a'immaḥ* are guided by their Lord.¹⁸⁴

A'immaḥ:

The position of the *a'immaḥ* in al-Sha'rānī's thought is unique. For he describes the *a'immaḥ* as the "pegs of the earth,"¹⁸⁵ the "pillars of the religion,"¹⁸⁶ the "trusted men of the *shāri'* for his *ummah*"¹⁸⁷ and as the "inheritors of the Messenger of God."¹⁸⁸ As such their role is to act as expounders of the *sharī'ah* in the absence of the *shāri'*. Thus, their aim was to explain the speech of the *shāri'* to the common people, in the language they understand, the allusions (*kināyah*) of the Book, since they were veiled and thus had no success (*tawfīq*) in understanding the speech of the *shāri'*.¹⁸⁹ However, had their veils been removed they would

certainly have understood the speech of the *shārī'* as the *mujtahids* understood it.¹⁹⁰ Then, they would not stand in need of anyone to explain it to them. Moreover, the author believes that, every thing which they see as infringing the signs of religion,¹⁹¹ whether by commission or omission, they make (the rule against) *tashdīd*.¹⁹² Likewise, all that which they regard as perfecting the signs of religion and not causing any defect in it, they keep at the level of *takhfīf* (if it is *takhfīf*).¹⁹³ This is due to their status as the trustees of the *shārī'* after him.¹⁹⁴ In explanation of al-Sha'rānī's statement, it might be suggested that the reason why the *a'imma* were silent over many innovative issues may have been that they, in their opinion, might have contributed positively towards strengthening their *muqallids'* *īmān*, *islām* and *iḥsān*.¹⁹⁵

Explaining the reason why the *a'imma*, being men of perfection due to their ability to see the spring of the *sharī'ah*, held discussions among themselves when it would seem to be in conflict with the status of one who witnesses the connection of the *madhāhib* with the spring of the *sharī'ah*, al-Sha'rānī says that such discussions were held before "their reaching the status of *kashf* and their study of the connection of all the *madhāhib* with the spring of the *sharī'ah*,"¹⁹⁶ for it is necessary in a debate to refute the proof of the opposition, if not, "the debate would be a mockery."¹⁹⁷ Perhaps, the discussion was held between a *mujtahid* and a non-*mujtahid*, and the *mujtahid* through the debate sought to elevate the imperfect *mujtahid* to the status of perfection and not just to refute his proof as a whole.¹⁹⁸ Likewise, it is also possible that the debate was a place for the explanation of the most perfect and the best so that one of them could act according to it and guide his companion to act according to it, by virtue of its being superior in status of *islām* or *īmān*, or *iḥsān*, or

īqān.¹⁹⁹ Al-Sha'rānī is very candid in his assertion that there never took place debates between two perfect persons of similar intellectual status.²⁰⁰ "Nay", he says, "it is a must for it (i. e.: the debate) to have obligation and that which is closer to their aim is sharpening the minds of their followers and their benefits, just like the Prophet who used to do something to explain the permissibility and benefit to the community"²⁰¹ through the *ḥadīth* which describes *islām*, *īmān* and *iḥsān*.²⁰²

Further, al-Sha'rānī says that every *mujtahid* testifies to the validity of the opinion of his companion.²⁰³ It is on this basis that the *mujtahids* said that a *mujtahid* does not reject the opinion of another *mujtahid*, since he sees the opinion of his opponent as being within the two sides of the *sharī'ah* and that his opponent, too, is guided in his opinion by God.²⁰⁴

A *muqallid* should believe that all the *a'immaḥ* are guided by their Lord in whatever they opined, and there is nothing except being either near or nearer or far or farther from the spring of the *sharī'ah* according to the length and shortness of the chain of transmitters, just as it is obligatory to believe in the validity of all the *sharā'i'* of the prophets before they were abrogated, despite the differences and inconsistency in them with regard to the exoteric aspect of the *sharī'ah*.²⁰⁵ For they, being the trustees of the Messenger, act as *shāri'* in the absence of the latter. As such, their explanations become rules by virtue of their having attained the above status. Thus, what al-Sha'rānī tries to convey through such quotations and elucidations is that the rules which the *a'immaḥ* or the *mujtahids* deduce become an integral part of the *sharī'ah*. To act according to their deductions is binding on the *mukallafs* according to

their status in respect of *sharī'ah*. Thus, even the deductions of the *a'immaḥ* could be categorised under *takhfif* and *tashdīd*. For, they also speak to the *mukallafs* according to their level of understanding just like the Prophet who said to one of the *ṣaḥābah*, when he was asked by the latter how he saw his Lord, "206 that he saw "Him as light."207 On the other hand, he said to the great personalities among the *ṣaḥābah* that he saw his Lord as "a single word."208 This he said due to his knowledge of their understanding and the "fear that they might imagine in respect of God that which does not befit Him (i.e. His status)."209 To illustrate this approach of the Prophet, al-Sha'rānī narrates yet another incident where the Prophet commanded Abū Bakr to spend all his wealth, whereas he said to Ka'b b Mālīk,210 when the latter wanted to renounce his wealth in seeking God's forgiveness, that he should hold on to some of his money for himself.211 For, the Prophet said to him "this would be better for you."212 It is on this basis, al-Sha'rānī argues that it is obligatory on the *muqallids* to believe in the validity of all the valid *madhāhib* of the *mujtahids*, even though their speeches contradict the apparent speech of their *imām*.213 This is because whenever a man is distant from the rays of the light of the *sharī'ah*, his understanding and its light are hidden.214 So others will think that his speech is outside the *sharī'ah*.215 Whereas, it is not like that. Perhaps, that is the reason for the '*ulamā*'s attribution of weakness to the speech of one another at every period.216 A study of these periods will show that the people of every period criticized the validity of the opinion of some periods which had passed before them.217 Al-Sha'rānī counts his time as the fifteenth stage after the first period of the *ṣaḥābah*.218 In describing a perfect scholar, al-Sha'rānī quotes 'Alī al-Khawwāṣ as saying:

The position of a scholar will not become perfect, with us, in respect of knowledge, until he refers all the opinions of the *mujtahids* and their

followers in various periods to the Book and the *sunnah*. He should not be ignorant of even a single opinion, if it was shown to him. When he does that he will no longer be from the *'awwām* (commoner) and will become eligible to be called an *'ālim*. It is the rank of those scholars who know God. Thereafter he will keep on ascending degree after degree until he becomes able to deduce all the laws of the *Qur'ān* and its manners from the *surat al-fātiḥah*. Thus, if he recites it in his *ṣalāt*, perhaps his reward will be like the reward of one who recited the whole *Qur'ān*, by virtue of his encompassing the whole of its meaning. Thereafter, he will ascend from that rank till he begins to deduce all the *Qur'ānic* laws and the *sharā'ī* laws and the opinions of the *mujtahids* and their followers till the Last Day, from any letters of the alphabet he chooses. He will continue to ascend to a degree which is far beyond that.²¹⁹

"Arguments," says 'Alī al-Khawwās, "about the *sharī'ah* are all that is left of hypocrisy."²²⁰ This is because the aim of such arguments is just to refute the proofs of others, whereas God has said:

By Your Lord they will not be believers until they make you judge in whatever they dispute between them, whereafter they will not have disengagement in their hearts.²²¹

Therefore, al-Sha'rānī cautions the readers not to quarrel with the *'ulamā'* of the *sharī'ah* or to try to disprove their proofs because they are true.²²² This is because, it will be like arguing with the Prophet, despite the *'ulamā'*'s different status in respect of knowledge.²²³ For, the *'ulamā'* are following the steps of the Messenger when they ascend.²²⁴ Therefore, it is obligatory for the *mukallafs* to believe in them and to attribute truthfulness to whatever the Messenger brought with him even if the *mukallafs* do not understand their wisdom.²²⁵ Likewise, it is obligatory on the *mukallafs* to believe and to attribute truthfulness to the speech of the *a'immaḥ* even though they do not understand their cause, until there comes from the *shāri'* what contradicts it.²²⁶ Further, the *mukallafs* should believe in the *madhāhib* since God had favoured them (i. e.: the *mukallafs*) by letting them patronise the spring of the *sharī'ah* and the connection of all the opinions of the *'ulamā'* with it.²²⁷

Therefore, if any of the *mukallafs* or the *muqallids* falsify any of the 'ulamā' in respect of their opinions, then the mistake is not in the opinions of the 'ulamā', instead, it should be taken as "his mistake only due to the weakness of his intellect concerning it and nothing else."²²⁸

Regarding the saying of the Prophet, "the leaders are from the Quraysh,"²²⁹ al-Sha'rānī says that it is probable that the intent of the Prophet is the Caliphate.²³⁰ It is also possible, in the opinion of the author, that it may refer to religious leadership.²³¹ However, on examination, al-Sha'rānī finds this to be invalid, because when the 'ulamā' investigated the matter, they saw that **most** of the *a'immaḥ* of the *mujtahids* were from the clients (*mawālī*) of the Quraysh and not from the Quraysh themselves.²³² They include *a'immaḥ* like Abū Ḥanīfah, Mālik, al-Nakha'ī, Muḥammad b al-Ḥasan, Aḥmad b Ḥanbal, Sufyān al-Thawrī, Makhūl, al-Awzā'ī and many others like them.²³³ In the case of Mālik, he is a *mawlā* from Banū Aṣbah,²³⁴ while al-Nakha'ī is a *mawlā* of the Yemenī tribe called Nakha'.²³⁵ Both Muḥammad b al-Ḥasan and Ibn Ḥanbal are from the tribe called Rabī'ah.²³⁶ As for al-Thawrī, he is from the Banū Thawrī b 'Amr b 'Add.²³⁷

The status of the *a'immaḥ* is that they were men of *ḥaqīqah* and *sharī'ah* together.²³⁸ That is why their views and opinions always come in full agreement with *sharī'ah* and *ḥaqīqah*. In this respect al-Sha'rānī quotes 'Alī al-Khawwās as saying:

The *a'immaḥ* of the *madhāhib* supported their *madhāhib* by treading on the foundations of *ḥaqīqah* and *sharī'ah* together, so as to inform their followers that they were 'ulamā' according to the two paths.²³⁹

It is on this basis that the author argues that the *a'immaḥ* were also *awliyā'*.²⁴⁰ For he says that, if they were not *awliyā'*, "there would never

be on the face of earth a *walī*.²⁴¹ Basing himself on the idea that a *walī* meets the Prophet either in sleep or awake, al-Sha'rānī argues that the *a'immaḥ*, who were so much closer to the Prophet than an ordinary *walī*, must also have had that experience and could therefore also be considered as *awliyā'*.²⁴² Therefore, quoting his master 'Alī al-Khawwāṣ, the author says:

It is not a necessity for a *muqallid* to hesitate in practising according to any opinions of the *a'immaḥ* of the *madhāhib* and to seek from them the proof of that. This is because it would be bad manners towards them... (since their) opinion... had been built on a foundation of valid *aḥādīth* or on a valid *kashf* which will never oppose the *sharī'ah*. If the *kashf* is known to be information about a matter as it is in reality... (then the *mukallaf* will) not find it opposing the *sharī'ah* in anything, nay it is the *sharī'ah* itself. This is because, the Messenger of God... only speaks the truth (*al-wāqī'*) due to his protection from error and supposition.²⁴³

Al-Sha'rānī quotes the opinion of 'Alī al-Marṣafī²⁴⁴ that the *a'immaḥ* of the *madhāhib* were the inheritors of the Messenger of God in the science of spiritual states (*'ilm al-aḥwāl*) and the science of exoteric explanations (*'ilm al-aqwāl*) together.²⁴⁵ However, according to the author, this was contested by some of the *ṣūfīs* who imagined that the *mujtahids* only inherited the science of exoteric explanations from the Messenger and that the totality of what all the *mujtahids* had known is a fourth of the knowledge of a perfect man in the path.²⁴⁶ They maintained that a man becomes perfect only when he ascertains, in the position of his *wilāyah*,²⁴⁷ the sciences of the four precincts in respect of the following saying of God:

He is the First, the Last, the Apparent and the Hidden.²⁴⁸

They try to belittle the *a'immaḥ* by saying, "These *mujtahids* do not ascertain anything except of the science of principles (*ḥaḍrah*) of God's

apparent names only, they do not have knowledge of the principles of the *azal* nor of the *abad*, nor of the knowledge of the reality."²⁴⁹

As a reply to the above stand of these *ṣūfīs*, al-Sha'rānī argues that these men are ignorant of the status of the *a'immaḥ*.²⁵⁰ In support of this, he quotes 'Alī al-Khawwāṣ as saying:

Everyone whose heart God...has illumined will find that the *madhāhib* of the *mujtahids* and their followers, all of them, are connected with the Messenger of God...by way of the apparent chain of "from so and so ('*an'anah*)" and by way of the heart of the Messenger...assisting all the hearts of the '*ulamā*' of his *ummaḥ*. Therefore, the lamp of an '*ālim* is not lit except from the niche of the light of the heart of the Messenger."²⁵¹

Explaining further, 'Alī al-Khawwāṣ says that the chain does not end at the Messenger, it in fact continues to ascend to the precinct of God, through Gabriel, which is beyond the apparent and hidden chains.²⁵² It is the knowledge of the reality which is supported by the quality of protection from error ('*iṣmah*').²⁵³ That means that the occurrence of any mistake or fault is ruled out. Whoever quotes its knowledge as it is in reality, cannot commit any mistake in that. However, a fault or a mistake might occur only through the manner of deducing it.²⁵⁴ Therefore, in 'Alī al-Khawwāṣ' opinion, "What the *muḥaddiths* narrated through valid chains of authority which ended at the precinct of Truth is the same as the utterances or opinions of the people of valid *kashf*, who quote from knowledge of reality."²⁵⁵ This is because, "All the lamps of the exoteric and esoteric '*ulamā*' are lit from the light of the *sharī'ah*."²⁵⁶ All the opinions of the *mujtahids* and their followers are supported by the opinions of the people of reality.²⁵⁷ This was the reason why al-Sha'rānī tried to support the speech of the *a'immaḥ* of the *sharī'ah* by equating their speech with the speech of *ahl al-kashf*. This is done so as to

"strengthen the hearts of the students among the followers of the *madhāhib* so that they will act according to the speech of their *a'immaḥ* with certitude and explanation, when they see that reality supports the deduced *sharī'ah* and vice-versa."²⁵⁸

The concern of the *a'immaḥ* for their followers is significant in that, they, according to al-Sha'rānī, will intercede²⁵⁹ in respect of their followers to such an extent that some of them "will keep an eye on the rising spirits of their followers when they are questioned by the angels of the grave, Munkar and Nakīr,²⁶⁰ in the grave and at the time of resurrection, the gathering, the accountability, the balance, and the bridge."²⁶¹ That is, they will not be careless about them at any of these places.²⁶² To illustrate this issue of the intercession of the *a'immaḥ*, al-Sha'rānī puts forward the case of Nāṣir al-Dīn al-Laqqānī, who is reported to have appeared in the dream of someone, after his death. So the pious man asked al-Laqqānī what God had done with him. To this the dead *shaykh* replied that when he was made to sit by the two angels in the grave and they began to question him, *imām* Mālik came to them and said, '(Does a person) like this need to be questioned about his belief in God and His Messenger?', and they withdrew from Mālik and withdrew from him.²⁶³

Al-Sha'rānī then asks, "If the *mashā'ikh*²⁶⁴ of the *ṣūfīyah* were to keep an eye on their followers and their disciples in respect of all alarm and calamity in the world and the hereafter, then how will it be with the *a'immaḥ* of the *madhāhib*?"²⁶⁵ - meaning that their concern for their followers is very great indeed. Al-Sha'rānī maintains that it is not permitted for anyone to make comparisons of the different *a'immaḥ* with

each other by trying to point out their defects in the same way that it is not permitted to do this with regard to the prophets.²⁶⁶ Al-Sha'rānī justifies this attitude to the *a'immaḥ* by arguing that even though the *ṣaḥābah* differed on some of the substantive laws (*furū'*), none of them criticised each other for that.²⁶⁷ The meaning of the term *rahmah* in the *ḥadīth*:

The difference of my *ummaḥ* is a mercy (*rahmah*), whereas the difference was a torment for those who preceded us,²⁶⁸

brings about a wider scope for differences in the *ummaḥ*.²⁶⁹ Therefore, had any one of the *a'immaḥ* been at fault in respect of the same issue, their differences would certainly have not been a mercy.²⁷⁰ Regarding the *ḥadīth*:

My *ṣaḥābah* are like stars, so whoever among them you follow, you are (certainly) guided,²⁷¹

al-Sha'rānī says that this could be taken as an analogy for the validity of following any of the *a'immaḥ*.²⁷² For, the author says, "Had we followed anyone of the *a'immaḥ* we would certainly have been guided,"²⁷³ since the Messenger of God had "given us the choice of acting according to the opinions of whoever of them we wish."²⁷⁴ "That", al-Sha'rānī says, "would have been possible only if they were all guided by their Lord. However, if one of them had been right, there would not have been any guidance to those who followed the rest of them."²⁷⁵ Therefore, as a *mukallaf* and as a *muqallid* one should abstain from criticizing and finding fault with any one of the *a'immaḥ*. In this regard he quotes the opinion of Tāj al-Dīn al-Subkī,²⁷⁶ who says in his *Tabaqāt al-Kubrā*:²⁷⁷

It is necessary for you, O, you who seek guidance, to tread the path of *adāb* (manners) with all the earlier *a'immaḥ* and to look at the criticism of them by some people only in order (to investigate) clear proof. Then if you are capable of interpreting and have good intention, act according to your ability. If not, turn away from what you see among them. For,

you, O, my brother, were not created for the like of this. You were created to act (*istighāl*) according to what concerns you in your religious matters.²⁷⁸

Continuing his advice to students, al-Subkī says that the student will always be noble before his eyes as long as he refrains from (criticising) what has taken place between the *a'immaḥ*.²⁷⁹ Therefore, al-Subkī warns the student against paying attention to what had occurred between Abū Ḥanīfah and Sufyān al-Thawrī, or between Mālik and Ibn Abū Dhi'b²⁸⁰, or between Aḥmad b Ṣāliḥ²⁸¹ and al-Sha'bī,²⁸² or between Aḥmad b Ḥanbal and al-Ḥārith al-Muḥāsibī, and so on till the time of 'Izz al-Dīn b 'Abd al-Salām²⁸³ and Taqī al-Dīn b al-Ṣalāḥ. This is because, by engaging oneself in these debates and discussions between the '*ulamā*', one will go astray.²⁸⁴ For, al-Sha'rānī believes that there are interpretations of their opinions which others, perhaps, might not understand.²⁸⁵ Therefore, he suggests that we should only be satisfied with them and keep silent over any disputes which took place between them, just as we are silent about any disputes among the *ṣaḥābah*.²⁸⁶

Commenting on the tension between the *a'immaḥ*, 'Izz al-Dīn b 'Abd al-Salām, as recorded by al-Subkī says:

If it has reached you that one of the *a'immaḥ* had a severe dislike for anyone among his contemporaries, then that is because he was afraid that (some) one (might) understand from his speech the opposite of what he intended, especially (in respect of) '*ilm al-aqīdah* (dogmatics), for, the speech (i.e.: the criticism) in respect of that is very severe.²⁸⁷

Al-Sha'rānī portrays how the *a'immaḥ* showed respect for one another. He reports al-Shāfi'ī issuing a *fatwā* to one who took a vow to walk to the *Ka'bah* and broke it, on the basis of the *fatwā* of compensation for breaking the vow.²⁸⁸ Then al-Shāfi'ī said, "This (opinion) has been put forward by one who is better than me, 'Aṭā' b Abū Rabāḥ."²⁸⁹

Likewise, al-Shāfi'ī left the recitation of *qunūt*²⁹⁰ when he paid a visit to Abū Ḥanīfah's grave and realised the time of *ṣalāt al-ṣubḥ* had come. He said, "How shall I (recite the) *qunūt* in the presence of the *imām* when he did not accept it?"²⁹¹ Al-Sha'rānī says that al-Shāfi'ī did that only to show respect to the *a'immaḥ* of the *mujtahids* and to show that their opinions were sound.²⁹² The *a'immaḥ* put forward an opinion only after they had studied its proof from the speech of the *shāri'*.²⁹³ However, this did not negate the opinion of al-Shāfi'ī which has been quoted from him earlier, that the opinion of anyone will not be accepted as a proof from the Prophet, even though some have said that al-Shāfi'ī did not accept Abū Ḥanīfah's opinions based on *ijtihād*.²⁹⁴ Rather he took notice of his *ijtihād* out of the necessity for good manners towards the *a'immaḥ* of the *mujtahids*.²⁹⁵ However, al-Sha'rānī states that al-Shāfi'ī did not leave out the recitation of *qunūt* only out of good manners towards Abū Ḥanīfah despite the opinion of al-Shāfi'ī about *qunūt* being a *sunnah* act at that time.²⁹⁶ Rather he did it because he was following the Prophet who had desisted from doing something which he had earlier suggested out of good manners towards others who had suggested something else.²⁹⁷ There is also the possibility that al-Shāfi'ī did this because at that time his *ijtihād* coincided with Abū Ḥanīfah's.²⁹⁸ That might be one of the great *karāmāt* (miracles) ascribed to Abū Ḥanīfah and it in no way degraded the status of al-Shāfi'ī before Abū Ḥanīfah.²⁹⁹ Another possibility is that it brought about the correctness of both their positions in terms of what has been quoted from al-Shāfi'ī about respecting Abū Ḥanīfah.³⁰⁰

Some people said there is no innovation in the non-recitation of *qunūt* purely to observe good manners.³⁰¹ For, good manners is that which the Prophet has commanded.³⁰² Therefore one who is observing

good manners towards his brother is as though he is observing manners towards the Prophet and a follower of his *shara'*.³⁰³ When Mālik was asked about Abū Ḥanīfah, he said, "What do you say about a man, who if he argues with me that this (particular) pillar is half of stone while the other half is of silver and stands by his argument?"³⁰⁴ This suggest that Mālik is claiming that Abū Ḥanīfah was very good at argument. While al-Shāfi'ī says, "People, all of them, in respect of *fiqh*, are entirely dependent on *imām* Abū Ḥanīfah."³⁰⁵ Al-Sha'rānī heard 'Alī al-Khawwās as saying, "It is obligatory for every *muqallid* to (observe) manners with all the *a'immaḥ* of the *madhāhib*."³⁰⁶ He once heard some of the Shafi'ites saying, "And in this *ḥadīth* (there is) a rebuttal of Abū Ḥanīfah."³⁰⁷ He retorted saying, "May God cutoff the tongue of (people) like you (for) saying this word, however the manners (should have been) to say (perhaps) the *imām* had not seen this *ḥadīth*."³⁰⁸ On another occasion al-Sha'rānī heard his master saying, "The understanding of Abū Ḥanīfah is subtle which one would hardly see except from the people of *kashf* among the greater personalities of the *awliyā'*."³⁰⁹ He said about Abū Ḥanīfah that whenever he sees the water which has been used for ablution, he usually knew all the *kabā'ir* (grave sins), the *ṣaghā'ir* (lesser sins) and the *makrūhāt* (detestable) which have sunk in it.³¹⁰ It is because of this that he defined pure water, when the *mukallaf* purifies himself with it, into three states:³¹¹

- the *najāsah al-mughallazah* (very impure) due to the possibility of the *mukallaf* committing a grave sin.

- the *najāsah al-mutawassitah* (moderately impure) due to the possibility of the *mukallaf* committing a lesser sin.

- that which is pure in itself but does not purify other things due to the possibility of the *mukallaf* committing *makrūḥāt* (the detestable) or leaving the best (*khilāf al-awlā*). Then in that case there is no real sin, due to the permissibility of the *makrūḥāt* being committed. Whereas, a group from his followers understood that these three opinions are in respect of one state (alone). But the state, on the contrary, is in respect of (three different) states. And most of the *mukallafs* will only rarely be free from committing any of these. Al-Sha'rānī says that every *mukallaf* should thank God for creating people like Abū Ḥanīfah who broadened the rules which were not clear in terms of prohibition and permission.³¹²

Therefore, al-Sha'rānī urges the *mukallafs* to observe good manners towards the *a'immaḥ* just as they observed good manners towards one another and to follow them in that.³¹³ He warns the *mukallaf* not to abstain from acting according to their opinions because they did not understand their disputes.³¹⁴ For the *mukallafs*, being ordinary people as compared to the *a'immaḥ*, are not of the status to criticise the '*ulamā*' since they are ignorant.³¹⁵ Therefore, al-Sha'rānī suggests that the *mukallafs* should act according to all the opinions of the '*ulamā*', even if they are less preferred ones.³¹⁶ One way of preventing *mukallafs* from criticising the *a'immaḥ*, according to al-Sha'rānī, is by knowing the definitions employed by the *a'immaḥ*, since they were those who observed good manners with God.³¹⁷

Al-Sha'rānī quotes those who have exaggerated in their praise of Abū Ḥanīfah.³¹⁸ The purpose in including this section in his *al-Mizān* is to show the respect Abū Ḥanīfah, and by extension, all the *a'immaḥ* have merited from others. In this respect al-Sha'rānī repeatedly quotes the

opinions of Abū Ja'far al-Shayzāmārī³¹⁹ and Shaqīq al-Balkhī.³²⁰ For instance, it is said that Abū Ḥanīfah never sat under the shadow of the wall of his debtors, for he is reported to have said:

I have with him (i.e.: the debtor) a loan and every loan that brings (*jarra*) benefit (i.e.: interest) is a *ribā* (usury), my sitting under the shadow of his wall is a benefit for me from the shadow of his wall.³²¹

One might wonder why al-Sha'rānī has singled out Abū Ḥanīfah. His anxiety about the *imām* seems a matter of great concern to him. Is it because Abū Ḥanīfah and his *madhhab* were not treated favourably in Egypt at the time of al-Sha'rānī? Or does he use Abū Ḥanīfah as the symbol of the *a'imma*, the latter being the greatest and the oldest of the *a'imma* in compiling the *madhāhib* and being nearer than them in his chain of authority reaching the Prophet and his witnessing the greatest personalities among the *tābi'in*?³²² Or is it simply a device to win the hearts of the Ottomans who were themselves the followers of Abū Ḥanīfah? He does not seem to give any answer to these questions. Perhaps the author is desperate and sincere to find ways and means of solving the ever-recurring dilemma.

From what has been elucidated in the previous pages, we could definitely see the intent of the author. That is, he has attempted to elevate the status of the *a'imma* to that of the *awliyā'*, while at the same time emphasising the need for an *'ālim* to be versed in *sulūk*. By this, al-Sha'rānī brings about a delicate balance between otherwise hostile factions.

ENDNOTES FOR CHAPTER FOUR

- ¹ Al-Mizān, 1:67 and 70.
- ² Ibid., 1:67.
- ³ Ibid., 1:29.
- ⁴ Ibid..
- ⁵ Al-Mizān, 1:29. The expression "dried out in the fifth century" means that his *madhhab* did not survive after that period. This is because, it did not "enjoy common appeal and patronage." see Qādiri, Anwar A., *Islamic Jurisprudence in the Modern World*, (Lahore, 1975), p. 148.
- ⁶ Al-Mizān, 1:29.
- ⁷ Ibid..
- ⁸ Ibid..
- ⁹ Ibid..
- ¹⁰ Cf. text p. 102.
- ¹¹ Al-Mizān, 1:29.
- ¹² Ibid..
- ¹³ Ibid.. It seems this idea has been taken from Shams al-Dīn Abū 'Abd Allāh Muḥammad al-Munaiyyir al-Balbīsī, a disciple of Ibrāhīm al-Matbūlī, died in 931 *h.* see his biography in al-Kawākib, *op.cit.*, 1:95-7; TKS, *op.cit.*, 2:130-1. The same fact is ascribed by al-Sha'rānī to al-Balbīsī in his *Akhlāq al-Matbūliyyah*. see Ibid., 1:272.
- ¹⁴ Al-Mizān, 1:30.
- ¹⁵ Ibid..
- ¹⁶ Ibid..
- ¹⁷ Ibid..
- ¹⁸ Ibid..
- ¹⁹ Ibid..
- ²⁰ Ibid..
- ²¹ Ibid., 1:30.
- ²² Ibid..
- ²³ Ibid..
- ²⁴ Ibid..
- ²⁵ Ibid., 1:66.
- ²⁶ Ibid..
- ²⁷ Ibid., 1:32.
- ²⁸ Ibid..
- ²⁹ Ibid..
- ³⁰ Ibid., 1:32-3.
- ³¹ Ibid., 1:33.
- ³² Ibid..
- ³³ Ibid..
- ³⁴ Ibid..
- ³⁵ Ibid..
- ³⁶ Ibid..
- ³⁷ Ibid..
- ³⁸ Ibid..
- ³⁹ Ibid..
- ⁴⁰ Ibid..
- ⁴¹ Ibid..
- ⁴² Ibid..
- ⁴³ Ibid..
- ⁴⁴ Ibid..

⁴⁵ *Ibid.*, see also the diagram on p. 101.

⁴⁶ *Ibid.*, 1:33. A *muḥkam ḥadīth* is that which precludes the possibility of abrogation. For instance, the ruling concerning *jihād* which provides that *jihād* remains valid till the day of resurrection. see *Kamālī*, *op.cit.*, p. 97.

⁴⁷ *Al-Mizān*, 1:19.

⁴⁸ *Ibid.*, 1:33.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*, 1:34.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.* This term is the intent of the phrase *bi abī huwa wa ummī fa 'alayka al-ra's wa al-'ayn* [I (sacrifice) my father and my mother and I (shall) hold it over my head and my eyes (out of respect)].

⁵⁷ *Ibid.*

⁵⁸ He is Abū 'Umar Yūsuf b 'Abd Allāh b Muḥammad al-Namarī al-Qurtubī, born in Cordova in 363 *h.* It is stated that he was an adherent of *Zāhirī madhhab* and became a *Mālikī* with a strong inclination towards *Shāfi'ī fiqh*. He died at the age of ninety-five in 456 *h.* see Raisuddin, A. N. M., "Ibn 'Abd al-Barr and his contribution to the study of *ḥadīth* literature in Spain," in *Islamic Culture*, 68

⁵⁹ *Ibid.*, 1:39.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ i.e.: happiness. Refer to note 112 on p. 86.

⁶⁴ unable to locate.

⁶⁵ *Al-Mizān*, 1:39.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*, 2:59.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*, 1:39.

⁷⁸ It is the plural of the term *walī*. This word is either derived from the declension of the root *w. l. y.* in the form of *fa'ilan* meaning the *fā'il* (Noun Agent) like *al-'alīm* for *al-'ālīm* which means *mā tawālat tā'athu min ghayr takhlīl ma'siyatihi* [one whose obedience has turned him away without disrupting his sins], or *fa'ilan* meaning *ma'ūl* like *qatīlan* for *maqtūl*, which means *huwa alladhī yatawallā al-ḥaqq subḥānahu ḥifzuhu ḥurāsatuḥu 'alā al-idāmah wa al-tawālā fa lā yuḥiqqu lahu al-Khidhlān alladhī huwa qudrah al-tā'ah*. see *Qushayrī*, *op.cit.*, p. 60. However, the term *walī* literally has five meanings: (1) the executor or administrator of one's affairs like the executor or administrator of a woman, (2) the beloved and chosen protector, (3) the emancipator of slaves, (4) the neighbour and (5) cousin (*ibn al-'amm*). Whereas, technically, it refers to "the *'arīf bi Allāh* (one who knows God). His qualities depend on his persistent adherence to obedience and avoidance of sins and renouncing one's preoccupation in respect of the essence and desires." see *Tahānawī*, pp. 1528-30; *Elder*, *op.cit.*, pp. 137-8. The hierarchy of the *awliyā'* is as follows:

	<i>al-Ghawth</i>
1	<i>al-Qutub</i>
4	<i>al-Awtad</i>
7	<i>al-Khiyar</i>
40	<i>al-Abdal</i>
70	<i>al-Nujaba</i>
300	<i>al-Nuqaba'</i>

For details see *EI*, 4:1109. However, a *walī* does not reach the rank of a prophet, for the prophets are "preserved from error, secure from fear of their later end, honoured by revelation, and by seeing the angels, and ordered to convey judgement and to lead mankind, in addition to possessing the perfection of *Walīs*." see *Elder*, *op. cit.*, p. 157; *EI*, 4:1109-11; *EORE*, 11:66-8 and 12:10-7. In this respect, Abū Yazīd al-Bisṭāmī (died in 261 h.) said, "The achievement of the Prophet is like a receptacle containing honey, from which driplets trickle down. These driplets are like that of all the *awliyā'*, whereas that which is in the container is like that of our Prophet." see *Qushayrī*, *op. cit.*, p. 159. Thus it can be said that, all the prophets are *awliyā'* but not all the *awliyā'* are prophets.

79 *Al-Mizān*, 1:39. In his *Tamhīd*, al-Asnawī says that...if one marries without the witnesses nor the guardian, by patching together both schools then the intercourse that follows it is a capital adultery. [see Reinhart, A. Kevin, "Transcendence and Social practice: *Muftīs* and *Qādīs* as Religious Interpreters", in *Annales Islamologiques*, Tome xxviii, (Cairo, 1993), p. 23; Jackson, Sherman A., "The second education of the *Muftī*: Notes on Shihāb al-Dīn al-Qarāfī's Tips to the Jurisconsult", in *MW*, Vol. 82(July-October, 1992) 3-4:214. Hereafter cited as *Jackson*.

80 *Al-Mizān*, 2:111.

81 *Ibid.*

82 *Ibid.*, 1:39. Al-Qarāfī states that some Mālikites along with the majority of the Shāfi'ites permitted the practice of inter-*madhāhib* conversion. see *Jackson*, *op. cit.*, p.214.

83 *Al-Mizān*, 1:39. See also Al-Qarāfī, Shihāb al-Dīn Abū al-'Abbās Aḥmad b Idrīs b 'Abd al-Rahmān al-Ṣanḥājī, *Kitāb anwār al-Burūq fī anwā' al-Furūq*, (Makkah, 1345 h.), 2:101; *Jackson*, *op. cit.*, p. 216.

84 He is Abū 'Alī 'Abd al-'Azīz b 'Imrān b Ayyūb al-Khuzā'i, studied from al-Shāfi'i. He died in 234 h. *Ibn al-Subkī*, 2:143.

85 He is Abū al-Ḥasan 'Alī b Abū 'Alī b Muḥammad b Sālim al-Tha'labī, known as Sayf al-Dīn al-Āmidī, born in Āmid in 550 h. and migrated to Egypt in 592 h. where he died in 631 h. *Ibid.*, 8:306-7.

86 He is Abū al-Ḥusayn Aḥmad b Fāris b Zakariyyā b Muḥammad b Ḥabīb al-Rāzī, died in Ray in 390 h. He was a famous linguist. *Dībāj*, p. 37; *Waraqah*, p. 134; *Wafayāt*, 1:118-20. see also *Yāqūt*, 4:80.

87 He is Abū Bakr Aḥmad b 'Alī b Thābit b Aḥmad b Mahdī b Thābit al-Baghdādī, known as al-Khaṭīb al-Baghdādī, born in Baghdād in 392 h. where he died in 463 h. *Ibn al-Subkī*, 3:12; *Tadhkirah*, p. 1135; *Shadharāt*, 3:311; *Ibar*, 3:253; *Wafayāt*, 1:92-3; *Yāqūt*, 4:13.

88 He is Abū Ja'far Aḥmad b Muḥammad b Salamah al-Azadī al-Taḥāwī, born in Taḥā in 239 h. He is the nephew of al-Muzanī. He died in 321 h. *Fihrist*, p. 207; *Ibar*, 2:186; *Shadharāt*, 2:288, *Taghribirdī*, 3:239; *Wafayāt*, 1:71-2. see text on p. 365 no. 61.

89 unable to locate.

90 *Al-Mizān*, 1:39.

91 *Ibid.*, 1:41-2.

92 It is reported that Ibn Mas'ūd said, "There was a man with us who proposed to a woman called Umm Qays. She refused to marry him till he migrated. Then he migrated and married her. Therefore, we used to call him Muhājir Umm Qays." see *Isābah*, *op. cit.*, 4:486.

- 93 It is the plural form of the term *madrasah* (Islamic Religious Seminary).
- 94 He is Abū Muḥammad Sa'īd b al-Mubārak b al-Dahhān al-Baghdādī, born in 494 h. and died in Mosul in 569 h. *Taghribirdī*, 6:72; *Wafayāt*, 2:382-5.
- 95 It is famous religious seminary in Baghdād established by the wazīr Nizām al-Mulk.
- 96 It is called [*Sharḥ*] *Kitāb ma'ānī al-Āthār*. *GAL*, 1:181.
- 97 *Ibid.*, 2:292 and 401; *GALS*, 2:426.
- 98 *Al-Mizān*, 1:40.
- 99 *Ibid.*
- 100 *Ibid.*
- 101 *Ibid.*
- 102 *Ibid.*
- 103 *Ibid.*
- 104 *Ibid.*
- 105 *Ibid.*
- 106 *Ibid.*
- 107 He is Abū al-Qāsim 'Abd al-Karīm b Muḥammad b 'Abd al-Karīm b al-Faḍl b al-Ḥasan al-Qazwīnī, died in 623 h. *Ibn al-Subkī*, 8:281-93; *Taghribirdī*, 6:266; Tāshkoprizāda, Aḥmad b Muṣṭafā, *Miftāḥ al-Sa'ādah wa miṣbāḥ al-Siyādah*, (Hyderabad, 1356 h.), 2:114-5. see text p. 370 no. 117.
- 108 *Al-Mizān*, 1:40.
- 109 It is entitled *Rawḍah al-Tālibīn wa 'umdat al-Muftīn*. see *GAL*, 1:499; *GALS*, 1:753 and 2:286.
- 110 *Al-Mizān*, 1:40.
- 111 *Ibid.*
- 112 *Ibid.*
- 113 *Ibid.*
- 114 *Ibid.*
- 115 *Ibid.*
- 116 *Ibid.*
- 117 *Ibid.*
- 118 *Ibid.*
- 119 *Ibid.*, 1:41.
- 120 *Ibid.*
- 121 He is Abū 'Imrān Ibrāhīm b Yazīd b al-Aswad b 'Amr b Rabī'ah b Ḥārithah b Sa'd b Mālik b al-Nakha'i, died in 96 h at the age of 50. see *Ibn Sa'd*, 6:270-84; *Wafayāt*, 1:25-6; *TKS*, 1:41. see text on p. 361 no. 13.
- 122 *Al-Mizān*, 1:62. However, al-Shawkānī quotes him with slight variation. That is, "Do not follow me, nor Mālik, nor al-Shāfi'i, nor al-Awzā'i, nor al-Thawrī, instead take from where they took." see al-Shawkānī, Muḥammad b 'Alī, *al-Qawl al-Mufīd fī adillat al-Ijtihād wa al-Taqlīd*, (Pakistan, 1402 h.), p. 25. Hereafter cited as *al-Shawkānī*.
- 123 *Al-Mizān*, 1:62.
- 124 *Ibid.*, 1:12.
- 125 *Ibid.*, 1:62.
- 126 *Ibid.*, 1:64.
- 127 *Ibid.*
- 128 *Ibid.*
- 129 Ibn Mas'ūd has expressed similar view. [see *al-Shawkānī*, *op.cit.*, p. 31].
- 130 *Al-Mizān*, 1:56.
- 131 That is one who is protected (from committing sin). It is a derivation of the word 'iṣmah. Al-Jurjānī defines it as *malkat ijtināb al-ma'āṣī ma'a al-tamakkun minhā* [the power of abstaining from sins despite having the ability to do them]. see *al-Ta'rīfāt*, p. 156. In the issue of 'iṣmah of the prophets, the differences amongst the scholars fall within the following four areas: (1) that which is

connected with belief. The *ummah* as a whole has reached a consensus on that the prophets are protected (*ma'sūm*) from infidelity and innovation, except some sects within the Khawārij, for they believe that it is permitted for the prophets to fall into infidelity. This is because they permitted (*yajūz*) for the prophets to commit sin and every sin is infidelity. As far as the Rawāfiḍ are concerned, they permitted for the prophets to display the expression of infidelity by way of *taqiyyah*. (2) that which is connected with the *sharā'i* and *ahkām* from God. They reached a consensus that it is not permitted for them (i.e.: the prophets) to interpolate and be treacherous in this matter, neither wilfully nor forgetfully, otherwise people will not depend on anything from the *sharā'i*. (3) that which is connected with *fatwā*. They all reached a consensus, that it is not permitted for them to wilfully commit a mistake, but regarding a mistake committed forgetfully, they all differed. (4) that which is connected with their (i.e.: the prophets') actions and states. In this issue the scholars differed as follows: (a) the stand of the Hashwiyyah is that it is permitted the prophets to engage in committing both the grave and minor sins. (b) Most of the Mu'tazilites believe that it is not at all permitted for the prophets to wilfully commit grave sins. As far as the minor sin is concerned, it is permitted on the condition that it is not repulsive (*munaffir*). However if the wilful commission of the minor sin is repulsive then it is not permitted for them. (c) Al-Jubbā'i believes that it is not permitted for the prophets to wilfully commit grave and minor sins, however, it is permitted for them to commit (*sudūr*) these sins mistakenly (*'alā sabīl al-khaṭa'*) during interpretation. (d) it is not permitted for the prophets to commit the minor nor the grave sins neither wilfully, nor through interpretation. As for the commission of the sin absentmindedly or forgetfully, the scholars permitted them to do them. Then they considered it blameworthy for the prophets to have such absentmindedness and forgetfulness, since their (i.e.: the prophets') knowledge is more perfect (*akmal*), therefore it is obligatory for them to aspire to attain a high degree in respect of truthfulness (*al-ṣidq*), protection (*al-tahfīd*), and vigilance (*al-tayaqquḥ*). (e) The Rawāfiḍ hold that it is not permitted for the prophets to commit the minor nor the grave sins neither wilfully, nor through interpretation, nor absentmindedly, nor forgetfully. They also differed in respect of the time of the obligation of this '*īsmah*'. To the Rawāfiḍ, the prophets should be protected from their birth till their death. However the majority of the scholars including Abū 'Alī al-Jubbā'i and Abū Hudhayl al-Allāf, hold that it is obligatory during the period of prophethood. As for it being before the prophethood, it is not obligatory. [For further details see al-Rāzī, Muḥammad b 'Umar, *Kitāb al-Arba'in fī uṣūl al-Dīn*, (Hyderabad, 1353 h.), pp. 329-68; see also al-Farrā', al-Qādī Abū Ya'lā, *Kitāb al-Mu'tamad fī uṣūl al-Dīn*, ed. by Wādī Z. Haddad, (Beirut, 1974), pp. 246-7; al-Baghdādī, Abū Maṣṣūr 'Abd al-Qāhir, *Uṣūl al-Dīn*, (Istanbul, 1928), 1:167-9; Ḥillī, Jamāl al-Dīn Abū Maṣṣūr Ḥasan b Yūsuf b al-Muṭahhir, *Anwār al-Malakūt fī sharḥ al-Yāqūt*, ed. by Muḥammad Najmī al-Zanjānī, (Tehrān, 1338 h.), pp. 195-7 and 204-6; *Tuhfah*, *op. cit.*, pp. 116-8; Hasan, Aḥmad, "The Concept of Infallibility in Islam," in *Islamic Studies*, 11 (March - 1972), No. 1, pp. 1-11; Farukī, Kemal, "Tawḥīd and the Doctrine of '*īsmah*,'" in *Islamic Studies*, 4 (March - 1965), No. 1, pp. 31-43. Al-Baghdādī says that the *ithbāt* of *shafā'ah* is for the prophets and the believers among themselves according to their status." see *Talkhīs*, *op. cit.*, p. 416n].

¹³² *Al-Mizān*, 1:62.

¹³³ *Ibid.*

¹³⁴ *Ibid.*, 1:61.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ He is Abū al-Ma'ālī 'Abd al-Malik Diyā' al-Dīn b Abū Muḥammad 'Abd Allāh b Abū Ya'qūb Yūsuf b 'Abd Allāh b Yūsuf b Muḥammad Hayyuwayh al-Juwaynī al-Nishāpūrī, known as *Imām* al-Ḥaramayn, born in 419 h. and died in 478 h. see *Tabyīn*, p. 278; *Ibn al-Subkī*, 3:249; *Ibar*, 3:291; *Shadharāt*, 3:358; *Wafayāt*, 3:167-70. see text on p. 368 no. 92.

¹³⁸ He is Abū Sa'd 'Abd al-Karīm b Abū Bakr Muḥammad b Muḥammad b 'Abd al-Jabbār b Aḥmad b Muḥammad b Ja'far b Abū al-Muẓaffar Maṣṣūr b Aḥmad b 'Abd al-Jabbār, known as Ibn al-Sam'ānī, born in Marw in 506 h. and died in 562 h. see *Ibn al-Subkī*, 4:259; *Tadhkirah*, p. 1316; *Ibar*, 4:178; *Wafayāt*, 3:209-12.

139 He is 'Imād al-Dīn Abū al-Ḥasan 'Alī b Muḥammad b 'Alī al-Ṭabarī, born in Baghdād in 450 h. and died in 504 h. A disciple of *Imām* al-Ḥaramayn [see note 18 above]. see *Tabyīn*, p. 288; *Ibn al-Subkī*, 4:281; *Iḥṣān*, 4:8; *Shadharāt*, 4:8; *Wafayāt*, 3:286-90. see text on p. 368 no. 97.

140 *al-Mizān*, 1:43.

141 *Ibid.*

142 *Ibid.*, 1:27.

143 *Ibid.*

144 *Ibid.*

145 *Ibid.*

146 *Ibid.*, 1:34.

147 *Ibid.*

148 *Ibid.*

149 *Ibid.*, 1:21.

150 *Ibid.*

151 *Ibid.*, 1:34-5.

152 *Ibid.*, 1:21.

153 *Ibid.*, 1:24.

154 *Ibid.*

155 *Ibid.*

156 It is not clear whether he is Muḥammad al-Ḥanafī or Maḥmūd al-Ḥanafī. If he is the latter one then he is the son of al-Badr al-Dīn al-'Aynī who died in 855 h. see al-Fāsī, al-Ḥasan b al-Ḥājj Maḥmūd al-Kohan, *Kitāb ṭabaqāt al-Shādhiliyyah al-Kubrā al-Musammā jāmī' al-Karāmāt al-'Ulyah fī ṭabaqāt al-Sādāt al-Shādhiliyyah*, (Cairo, 1347 h), p. 129.

157 *al-Mizān*, 1:24.

158 *Ibid.*, 1:22.

159 *Ibid.*

160 *Ibid.*

161 *Ibid.*

162 *Ibid.*

163 *Ibid.*

164 *Ibid.*

165 *Ibid.*

166 *Ibid.*

167 *Ibid.*, 1:22-3.

168 Cf. text p. 105.

169 *al-Mizān*, 1:23.

170 *Ibid.*

171 *Ibid.*

172 *Ibid.*

173 *Ibid.*

174 *Ibid.*

175 *Ibid.*

176 *Ibid.*

177 *Ibid.*

178 *Ibid.*

179 He is Aḥmad b Idrīs b 'Abd al-Rahmān al-Qarāfī al-Ṣanhājī, born in Cairo in 626 h. and died there in 684 h. see *al-Dibāj*, p. 66; *GALS*, 1:665; *Husn*, 1:316; al-Baghdādī, Ismā'il Bāshā, *Hadīyat al-'Arifīn asmā' al-Mu'allifīn wa āthār al-Muṣannifīn*, (Istanbul, 1951), 1:99; Makhlūf, Muḥammad b Muḥammad, *Shajarah al-Nūr al-Zakiyyah fī ṭabaqāt al-Mālikiyyah*, (Cairo, 1349 h.), pp. 188-9. Hereafter cited as *Shajarah*. see text on p. 371 no. 132.

180 *al-Mizān*, 1:39.

181 *Ibid.*

182 Ibid., 1:62.

183 Ibid.

184 Ibid.

185 Ibid., 1:45 and 53.

186 Ibid.

187 Ibid., 1:53.

188 Ibid., 1:32.

189 Ibid., 1:26.

190 Ibid.

191 Ibid. Closely related to this term the *sha'ā'ir Allāh* (the signs of God). It is the sign of obedience. Everything which has been made as a sign of obedience to God is a *sha'irah* (the plural of which is *sha'ā'ir*) of God. see Mafātīh, *op.cit.*, 4:174-5; Of the Signs of God is the clipping of the nails, trimming the beard and moustache, removing the unwanted hair from the armpit and pubic hair. For details see Dihlawī, Shāh Walī Allāh, *al-Fawz al-Kabīr fī uṣūl al-Tafsīr*, (Multān, n.d.), p. 26-7.

192 Al-Mizān, 1:26.

193 Ibid.

194 Ibid.

195 For instance, with regard to the issue of celebrating the birthday of the Holy Prophet, many scholars consider that as an innovation, because the Prophet did not celebrate his birth day, therefore whoever celebrates his birthday has indeed introduced something foreign to Prophetic teaching. This objection, though it may seem sound, may not be accepted by all the *mukallafs*. In support of this it could be argued that since there are grades of *mukallafs*, this celebration might strengthen the faith of weaker *mukallafs*. By increasing the occasions of such events, the '*ulamā*' have introduced into religion various celebrations in the hope of keeping the *mukallafs* within the ambit of the *sharī'ah*.

196 Al-Mizān, 1:24.

197 Ibid.

198 Ibid.

199 Ibid.

200 Ibid.

201 Ibid.

202 Ibid.

203 Ibid.

204 Ibid.

205 Ibid., 1:28.

206 Ibid., 1:19.

207 Ibid.

208 Ibid.

209 Ibid.

210 He is Ka'b b Mālīk b Abū Ka'b, who was called by the Prophet as Abū 'Abd Allāh. It is said that he died on the day when 'Alī b Abū Tālib was killed. see al-Isābah, 3:302.

211 al-Mizān, 1:19.

212 Ibid.

213 Ibid.

214 Ibid.

215 Ibid.

216 Ibid.

217 Ibid.

218 Ibid.

219 Ibid., 1:38.

220 Ibid.

221 Ibid.; al-Qur'ān, 4:65.

- 222 Al-Mizān, 1:38.
- 223 Ibid.
- 224 Ibid.
- 225 Ibid.
- 226 Ibid.
- 227 Ibid.
- 228 Ibid.
- 229 Ibid., 1:192; This is also the opinion of the predominant 'ulamā'. The Kharijites and some of the Mu'tazilites opposed it. However, their objection has not been taken into consideration. see al-Bayhaqī, *Sunan al-Kubrā*, (Hyderabad, n.d.), 8:141-5; *Nawawī*, *op.cit.*, 12:199-201; al-Māwardī, *Aḥkām al-Sultāniyyah*, ed. by Muḥammad 'Abd al-Qādir, (Cairo, 1880), p. 5; *TH*, p. 4; al-'Asqalānī, Aḥmad b 'Alī b Ḥajar, *Fath al-Bārī bi sharḥ ṣaḥīḥ al-Bukhārī*, ed. by Muḥammad Fu'ād 'Abd al-Bāqī and Muḥibb al-Dīn al-Khaṭīb, 2nd ed., (Cairo, 1988), 13:97. While the word *khiyārukum* in the *ḥadīth* quoted by Dārquṭnī that the Prophet said: *ij'alū a'immatukum khiyārukum wa innahum wafdukum fī mā baynakum wa bayna rabbikum* [make the best among you as your leaders, for they will be your delegates between you and your Lord], does not denote in any way that the term *khiyār* refers to the *Quraysh*. see Ibn al-Salāh, pp. 414-6.
- 230 Al-Mizān, 1:43.
- 231 Ibid.
- 232 Ibid.
- 233 Ibid.
- 234 It was a big tribe in Yemen. For details see Wafayāt, 4:138.
- 235 This tribe was the biggest tribe in the Madhḥaj area of Yemen. see Ibid., 1:25-6.
- 236 Unable to locate.
- 237 Unable to locate.
- 238 Al-Mizān, 1:43.
- 239 Ibid.
- 240 It is the plural of the term *walī*. see note 78 above.
- 241 Ibid., 1:44. see also TS, where al-Sha'rānī attributes a similar statement to al-Shāfi'ī.
- Ibid., p. 81.
- 242 Ibid.
- 243 Ibid.
- 244 He is Nūr al-Dīn Abū al-Ḥasan 'Alī b Khalīl al-Marṣafī, died in 930 *h*. He abridged the *Risālah* of al-Qushayrī. see TKS, 2:127-9.
- 245 al-Mizān, 1:44.
- 246 Ibid.
- 247 It is the position of Sainthood. see note 78 above.
- 248 Al-Mizān, 1:44-5; al-Qur'ān, 57:3
- 249 Al-Mizān, 1:45.
- 250 Ibid.
- 251 Ibid.
- 252 Ibid.
- 253 Ibid.
- 254 Ibid.
- 255 Ibid.
- 256 Ibid.
- 257 Ibid.
- 258 Ibid.
- 259 Cf. text pp. 104-5 also note 35 on p. 130.
- 260 They are the two angels who will visit the dead in their graves and to interrogate them as to their belief in the Prophet and his religion. They are described as two black angels with blue eyes. Hughes, *op.cit.*, p. 420.

- 261 Al-Mizān, 1:53.
- 262 Ibid.
- 263 Ibid. Dream plays important role even in the legitimization of the *madhāhib* and establishing the supremacy of the *a'imma*. see Kinbergh, Leah, "The Legitimization of the *Madhāhib* through Dreams," in *Arabica*, Tome 32 (1985), pp. 47-79.
- 264 It is another plural form of the word *shaykh*. Its other forms of plural are, *shuyūkh* or *ashyākh*, *mashyakhah*, and *mashāyikh*. see Wehr, *op. cit.*, p. 496 s.v. *shākha*. However, this term is particularly used to refer to the spiritual luminaries.
- 265 Al-Mizān, 1:53.
- 266 Ibid., 1:41.
- 267 Ibid.
- 268 Ibid.
- 269 Ibid.
- 270 Ibid.
- 271 Ibid.
- 272 Ibid.
- 273 Ibid.
- 274 Ibid.
- 275 Ibid.
- 276 He is Abū Naṣr Tāj al-Dīn 'Abd al-Wahhāb b 'Alī b 'Abd al-Kāfī b Tamām b Yūsuf b Mūsā b Tamām al-Anṣārī al-Subkī, born in Cairo in 727 *h.* and died in Damascus in 771 *h.* see Mu'jam, pp. 1002-4; Durar, *op. cit.*, 2:425-7; Taghribirdī, 11:108-9; Shadharāt, 6:221-2; Badr, *op. cit.*, 1:410-1; Kaḥhālāh, 6:225-6. see text on p. 371 no. 139.
- 277 see Mu'jam, p. 1003.
- 278 Al-Mizān, 1:69.
- 279 Ibid.
- 280 He is Abū al-Hārith Muḥammad b 'Abd al-Raḥmān b Abū Dhi'b al-'Āmirī al-Qurashī. He was a disciple of Mālik. Died in Kūfah in 159 *h.*
- 281 He is Abū Ja'far Aḥmad b Ṣāliḥ, born in Miṣr in 170 *h.* and died there in 248 *h.* see Tārīkh, 4:195; A'lām, 1:137.
- 282 He is Abū 'Amr 'Āmir b Shurāḥīl al-Sha'bī, a *tābi'ī* born in Kūfah during the Caliphate of 'Uthmān and died in 105 *h.* Tahdhīb, 5:65; Hilyah, 4:310; Tārīkh, 12:227; Wafayāt, 1:244.
- 283 He is 'Abd al-'Azīz b 'Abd al-Salām b Abū al-Qāsim b Ḥasan b Muḥammad b Muḥadhdhab al-Sulamī, called as *sulṭān al-'ulamā'* in his time. Born in 576 *h.* and died in 660 *h.* Taghribirdī, 7:208, Shadharāt, 5:301-2; Kaḥhālāh, 5:249.
- 284 Al-Mizān, 1:69.
- 285 Ibid.
- 286 Ibid.
- 287 Ibid.
- 288 Ibid., 1:61.
- 289 Ibid. see also al-Rāzī, Abū Muḥammad 'Abd al-Raḥmān b Abū Ḥatīm, Ādāb al-Shāfi'ī wa manāqibuhu, ed. by 'Abd al-Ghanī 'Abd al-Khāliq, (Ḥalab, 1953), p. 300; al-Shāfi'ī, Muḥammad b Idrīs, Kitāb al-Umm, (Beirut, n.d.), 5:238. Hereafter cited as al-Umm.
- 290 It is a supplication made when one raises from the *rukū'* of the second *raka'ah* of *ṣalāt al-ṣubḥ*, by raising his hands by holding the palms in front of his face.
- 291 Al-Mizān, 1:61.
- 292 Ibid.
- 293 Ibid.
- 294 Ibid.
- 295 Ibid.
- 296 Ibid.
- 297 Ibid.
- 298 Ibid.

- 299 Ibid.
 300 Ibid.
 301 Ibid.
 302 Ibid.
 303 Ibid.
 304 Ibid.
 305 Ibid.
 306 Ibid., 1:62.
 307 Ibid., 1:63.
 308 Ibid.
 309 Ibid.
 310 Ibid.
 311 Ibid.
 312 Ibid., 1:73.
 313 Ibid., 1:74.
 314 Ibid.
 315 Ibid.
 316 Ibid., 1:74-5.
 317 Ibid., 1:124.
 318 Ibid., 1:71-5.
 319 Unable to locate.
 320 He is Abū 'Alī Shaqīq b Ibrāhīm al-Balkhī, originally from Khurāsān and was a disciple of Ibrāhīm b Adham [see chapter 1 note 275] and died in 153 h.. Hilyah, 8:85; Wafayāt, 2:475-6.
 321 Al-Mizān, 1:72.
 322 Ibid.

CHAPTER FIVE

Al-Sha'rānī's attitudes towards Reasoning in Islāmic Law

The role of reason in *Islāmic* Law is important. Scholars have exerted their intellectual abilities in deducing particular appropriate substantive laws from the general principles laid down in the two primary sources of *Islāmic* Law. There are many ways of deducing a particular law from the general principles. The process by which such a law is deduced is known as *ijtihād*, which is based on the principles of *qiyās*. The results of such endeavours are called *fatāwā*. Even though these deductions are personal discretionary opinions, they are also considered as binding and thus constitute the secondary source of *Islāmic* Law.

Ijtihād and Mujtahid:

The process by which a *mujtahid* deduces his opinion is called *ijtihād*. That is, it is the exertion of one's intellectual ability and command of the instrumental sciences in arriving at a decision on a religious matter. According to al-Sha'rānī, *ijtihād*, in the legislation of God, is "a form of endearment (*ta'nīs*) to the Prophet,"¹ who in turn, gave "the '*ulamā*' the subject by which they detailed what was general in respect of his speech."²

He says the word "*ijtihād* is derived from *juhd* (exertion)"³ and "doing one's utmost in exercising one's mind and thinking deeply in

respect of (religious) evidences."⁴ The *mujtahids* did their "utmost in deducing the hidden rules in the Book and the *sunnah*."⁵ Therefore, God rewards the *mujtahids* of this *ummah* "with good."⁶ This is because, according to al-Sha'rānī, "had they not deduced, for the *ummah*, the rules from the Book and the *sunnah*, no one else would have been able to do that."⁷

Describing the origin of *ijtihād*, al-Sha'rānī draws the attentions of the readers to the night ascension (*mi'rāj*)⁸ of the Prophet to the precinct of God.⁹ In explaining this, the author quotes Ibn 'Arabī with whom he concurs that the incident which took place during the Prophet's audience with God was "an *ijtihād* from him (i.e. the Prophet)."¹⁰ That is, when God made obligatory on the *ummah* of Muḥammad fifty *raka'āt* of *ṣalāt*, the Prophet descended with it to Moses, without saying anything nor raising any objection to that.¹¹ However, Moses said to him: "Verily your *ummah* will not endure that,"¹² thereby urging the Prophet to make the petition before God to reconsider it.¹³ The Prophet, on the other hand, remained uncertain owing to his abundant affection for his *ummah* and his inability to oppose the command of God.¹⁴ Then he started to make judgement about which of the two conditions would be better for his *ummah*.¹⁵ This very act of the Prophet, as al-Sha'rānī maintains, is the origin and the reality of *ijtihād*.¹⁶ Thus, when it appeared to the Prophet that he should return to his Lord, he returned according to the *ijtihād* which agreed with the opinion of Moses.¹⁷ He executed that in respect of his *ummah* by divine permission.¹⁸ This was given as an example of the *ijtihād* of the Prophet.¹⁹ On the contrary, had God retained the fifty *raka'āt*, even after the petition of the Prophet, He would have given the

mukallafs the strength to perform it, as He had done so with the *ummah* of the earlier prophets.²⁰

Al-Sha'rānī does not seem to answer the question of why God did not give the *ummah* of Muḥammad the strength of the *umam* of the previous prophets to carry out the fifty *raka'āt*. Instead he, as mentioned earlier, states that whatever God had given to the *ummah* of Muḥammad is a "special favour." This "special favour" is the creation of the *mukallafs* into two categories of *shaqī* and *sa'īd*.²¹

Even this concession which the Prophet got from God during the *mi'rāj* is considered a special favour. For, by giving such a concession, God has showered "mercy on His servants"²² and "grace on the messenger of God as a mark of honour to him."²³

Al-Sha'rānī quotes Jalāl al-Dīn al-Suyūṭī as having transmitted that the absolute *ijtihād* is of two types:²⁴

- (1) Unrelated absolute *ijtihād* (*ijtihād muṭlaq ghayr muntasib*)
- (2) Related absolute *ijtihād* (*ijtihād muṭlaq muntasib*)

The unrelated absolute *ijtihād* is claimed by one who is not affiliated to any *madhhab*, like the four *a'immaḥ*.²⁵ However, the related absolute *ijtihād* is that which is claimed by those who are closely related to a *madhhab*.²⁶ To this category belonged the great disciples of the four *a'immaḥ*.²⁷ Al-Sha'rānī states that Jalāl al-Dīn al-Suyūṭī has claimed that no one has claimed the unrelated absolute *ijtihād* after the demise of the four *a'immaḥ* except Muḥammad b Jarīr al-Ṭabarī.²⁸ However, that was not accepted by others for him.²⁹

All those who claimed absolute *ijtihād* meant by that related absolute *ijtihād* which does not depart from the principles of their *imām*, like Ibn al-Qāsim³⁰ and Aṣḥab³¹ with Mālik, Muḥammad³² and Abū Yūsuf³³ with Abū Ḥanīfah, and like al-Muzanī³⁴ and al-Rabī³⁵ with al-Shāfi'ī.³⁶ According to al-Sha'rānī, he has not known of anyone after the four *a'immaḥ* having the power to originate the rules and deduce them from the Book and the *sunnah*.³⁷

Regarding the validity of the *ijtihād* of the *mujtahids*, al-Sha'rānī puts forward a strong case. He argues that the *mujtahids* are those who are the inheritors of the prophets in reality in respect of the '*ulūm al-wahy*'.³⁸ Further, the Prophet is *ma'ṣūm*, as such his inheritors are protected from committing a mistake in respect of the same matter.³⁹ For, if anyone finds fault with a *mujtahid*, then that was only a relative mistake owing to the fact that he has not studied the proof.⁴⁰ Since the station of the prophets and messengers are elevated, it can only be inherited by the '*ulamā*' of the *mujtahids*.⁴¹ As such their *ijtihād* "stands in the place of the text of the *shārī'* in respect of the obligation of acting according to it."⁴² For, the Prophet had permitted them to exercise *ijtihād* in respect of the rules, following the saying of God:

If they had referred it to the Messenger and to those who have been vested with power over them, those who are knowledgeable among them could deduce it for them.⁴³

Thus, it becomes clear that whatever the *mujtahids* had deduced is "a legislation from the command of the *shārī'*."⁴⁴ As such, every *mujtahid* is right in view of his *ijtihād* which the *shārī'* had established on him in the same way that of all the prophets are impeccable.⁴⁵

Regarding the decision of the *mujtahids* being part of the *sharī'ah*, al-Sha'rānī says that even though the *shāri'* did not permit what they deduced, "it is obligatory to assume that they knew that (a particular) obligation or the prohibition from the contexts (*qarā'in*) of the proofs or they knew that it is the intent of the *shāri'* by way of their *kashf*."⁴⁶ Thus, the knowledge of the *mujtahids* is derived from either the study of the *qarā'in* or from the *kashf*. However, al-Sha'rānī maintains that in some *mujtahids* "both these paths unite."⁴⁷ Further, he says that, according to some people the prohibitions and the permissions of the *mujtahids* will be for the best, whereas its opposite falls short of the best (*khilāf al-awlā*), since it is not allowed for anyone other than the *shāri'* to forbid a thing or to make it obligatory.⁴⁸ Moreover, al-Sha'rānī believes that the opposite of the prohibition is not a permission, instead it is a non-prohibition which contains a *mandūb* (recommended practice).⁴⁹ Thus, the best of the *mujtahid's* opinion is mostly in the side of *tashdīd* so as to prevent it from being made a requirement for everybody, whether performed or not performed, while that which falls short of the best is mostly on the side of *takhfīf*.⁵⁰

According to what al-Sha'rānī quotes from some of the *ahl al-kashf*, God made the *mujtahids* as servants through *ijtihād* in order that they make a contribution to the legislation, on which He establishes a firm footing for them.⁵¹ Therefore, none will precede them except their Prophet.⁵² Thus, the '*ulamā*' of this *ummah* will be resurrected as protectors of the proofs of the pure *sharī'ah*.⁵³ They, being the knowers of its (i.e., the *sharī'ah's*) meanings, will be raised in the "ranks of the prophets and the messengers and not in the ranks of *umam*."⁵⁴ Thus, there is neither a prophet nor a messenger except by his side one or two or more

'*ulamā*' amongst the '*ulamā*' of this *ummah*.⁵⁵ Every '*ālim*' amongst them has a position of teachership in respect of the science of rules, states, positions, stations till the end of the earth with the appearance of al-Mahdī.⁵⁶

From what has been mentioned above, it becomes clear that all the *mujtahids* are followers of the *shārī*' in respect of *takhfīf* and *tashdīd*. That is, being the inheritors of the Prophet, the *mujtahids*, too, made *takhfīf* and *tashdīd* in their *ijtihād*. Explaining this point elsewhere in the text, al-Sha'rānī says that "all the opinions of the *mujtahids* follow the proofs of the *sharī'ah* of the *takhfīf* and *tashdīd* in terms of appropriateness (*ḥukm al-muṭābiqah*)."⁵⁷ Whenever the *sharī'ah* has given a fuller explanation of a law it will never be possible for anyone to depart from it.⁵⁸ However, whenever the *sharī'ah* gives a general (*ijmāl*) explanation of a rule mentioned without specifying its status, then the *mujtahids* refer to the two categories: a category being *takhfīf* while the other category is *tashdīd* according to what appears to them from the sense of understanding (*madārik*) of the language of the Arabs.⁵⁹ That is why, al-Sha'rānī says that the rule of God in respect of every *mujtahid* is that the *mujtahid* is rewarded according to "whatever appears to him in the *shara'ī* issues and he will never be questioned on anything other than what appears to him (as truth)."⁶⁰ Therefore, al-Sha'rānī quoting al-Anṣārī says that one should not rush towards rejecting the opinions of a *mujtahid* or to find fault with him, except after he has encompassed all the proofs of the *sharī'ah* to such an extent that his knowledge should cover all the aspects of the language of the Arabs including the knowledge of its meanings and paths.⁶¹ This is evident when one examines the *madhāhib* of the *a'immaḥ*.

Thus, there is no mistake or error in their deduction. What is said as a mistake in the *ḥadīth*:

If a *ḥākim* made *ijtihād* and committed a mistake then for him one reward and if he was correct then for him two rewards.⁶²

The mistake in the above *ḥadīth* is the non-encountering of the proof and not the mistake which makes the *mujtahid* depart from the *sharī'ah*.⁶³ This is because, if he departs from the *sharī'ah*, then there is no reward for him, as has been stated in the *ḥadīth*:

Every action on which there is no command of ours, then it is (to be) rejected.⁶⁴

While in the words of Ibn Ḥazm, the *mujtahid* will not acquire any reward for an *ijtihād* which makes him depart from the *sharī'ah*.⁶⁵

Explaining the above *ḥadīth*, al-Sha'rānī says that the *shārī'* has established a reward for the *mujtahid* such that there remains nothing except the meaning of the *ḥadīth* that if the *ḥākim* or the *mujtahid* had made *ijtihād* and had encountered the said proof itself in respect of that from the *shārī'*, then he will have two rewards: a reward for the search (*tatabbu'*) and a reward for encountering the proof (*muṣādafah*).⁶⁶ Even if he did not encounter the proof itself, instead he encountered its rule only, then he will have one reward, and that is the reward for the search.⁶⁷ Therefore, what is meant by a mistake here is a mistake by attribution and not an absolute mistake.⁶⁸

Continuing the argument about the *mujtahid* being right or wrong, al-Sha'rānī speaks about the opinions of the *murīd* who follows a spiritual path and a *murīd* who has completed his *sulūk* in this respect. Referring to the former, al-Sha'rānī observes that since he will not be standing on the

first spring of the *sharī'ah*, he will not have the ability to grasp that every *mujtahid* is right.⁶⁹ On the contrary the one who has completed his *sulūk*, will certainly witness that every *mujtahid* is right.⁷⁰ This stand of this *murīd* will be criticised by the common *muqallids* because of their lack of understanding and their inability to witness what this *murīd* had witnessed.⁷¹ As such, they are excused.⁷²

Commenting on the "mistake of the *mujtahid*", al-Sha'rānī quotes the opinion of Ibn 'Arabī, who says:

It is not right for anyone to find fault with a *mujtahid* or to criticise him in respect of his speech. For, the *shara'* which is the rule of God...establishes the rule of the *mujtahid*. Therefore, it has become as a *shara'* of God...by the fact that He established it. This is an issue, in the prohibition of which many disciples of the *madhāhib* fall, due to not bringing into their presence what we had warned them, despite their being knowledgeable about it. Therefore, whoever finds fault with a *mujtahid* himself, he has as though found fault with the *shāri'* in respect of what he had established as a rule.⁷³

That is, the opinions of the *mujtahid* are taken as texts of the *shāri'* in respect of the permissibility of acting according to them through their conditions.

Therefore, if anyone demands proof for gaining reward from what the *mujtahids* have laid down, then he should be told, according to al-Sha'rānī, to believe in the divine guidance of all the *a'immah*.⁷⁴ Upon his acceptance of this truth it should be said to him, "Whenever you believed that the *a'immah* were guided by their Lord, and that their *madhāhib* are right, it is necessary for you to believe in the reward of every one who acts according to it sincerely and attainment in heaven of the rank of those who act according to it, even if their status differs."⁷⁵ This is because, what the *shāri'* has laid down is higher than what the *mujtahids* have laid

down.⁷⁶ However there are rewards for what the *mujtahid* has laid down, as has been stated in the *ḥadīth*:

Whoever lays down a good *sunnah*, then there is a reward for it and a reward for one who acts according to it.⁷⁷

However, on the contrary, if the *mujtahid* were to lay down a bad *sunnah*, then he will earn two sins, as mentioned in the *ḥadīth*:

Whoever laid down a bad *sunnah*, then against him is a sin for it and a sin for one who acts according to it.⁷⁸

Commenting on the role of the *mujtahid* in permitting or prohibiting a rule which the *shāriʿ* has not stated clearly, al-Shaʿrānī says, "Had they not understood from the context of the proofs of their prohibition or permission, they would not have opined according to it. Whereas, the contexts are the most trustworthy proofs. They might also have even understood that by way of *kashf*, which in turn will strengthen the contexts."⁷⁹

Owing to these reasons, al-Shaʿrānī says that the *muḥaqqiqs*⁸⁰ said that it is permitted for the *ʿulamāʾ* to lay down rules as they wished through the *ijtihād* based upon the rule of inheritance to the Messenger of God, just as the Prophet himself permitted what he wished to a particular people and prohibited the same to another category of people.⁸¹ Therefore, likewise, it is permitted for the *ʿulamāʾ* to do the same.⁸² Al-Shaʿrānī gives an example. That is the *ʿulamāʾ* made *ghusl* on the women in childbed (*nufasāʾ*) an obligation, the child being a congealed sperm.⁸³ However, if another woman were to bring out a hand or a leg only, despite the fact that the hand or the leg is without doubt a congealed sperm, she does not have to abide by the obligation.⁸⁴ As such there should be no criticism of the *ʿulamāʾ*'s exercise of such independence, for they are the

followers of the *shāri'*.⁸⁵ Al-Sha'rānī says of the speciality of the Prophet is that he made it obligatory on himself what he permitted for his *ummah* and he prohibited for them what he permitted for himself by the permission from God.⁸⁶ Therefore, no one should criticise the '*ulamā*' if their opinions contradict the chapters of the *fiqh*.⁸⁷

Qiyās:

Al-Sha'rānī observes that, even in *qiyās* the categories of *takhfīf* and *tashdīd* apply.⁸⁸ In other words, there are different forms of *qiyās* which are considered *takhfīf* and *tashdīd*. For, "of the scholars there are those who regard *qiyās* as *makrūh* in respect of religion, and there are those who prohibit it."⁸⁹ As such, the *mukallafs* are not sure as to "whether God has intended whether the cause (*'illah*)⁹⁰ should be investigated or not."⁹¹ An example of this ambiguity which al-Sha'rānī puts forward is the case of those jurists who make an analogy between rice and wheat in the matter of *ribā*.⁹² According to al-Sha'rānī, the *shāri'* "did not explain to us the rule pertaining to rice, as such the best policy, with the people of God, is to allow it to remain as it is without bringing it within the aspect of *ribā* as a *ḥadīth* has indicated, for God has been silent about such things as a mercy towards the *mukallafs*."⁹³ Therefore, al-Sha'rānī argues that, "those who draw conclusions by way of analogy from rice to wheat have made it *mushaddad*, while those who do not draw such conclusions have made it *mukhaffaf*."⁹⁴ The pious predecessors among the *ṣaḥābah* and their followers "were capable of drawing analogy, but they left that as good practice (*adab*) following the Messenger of God."⁹⁵ In this respect, al-Sha'rānī quotes the opinion of Sufyān al-Thawrī that:

(It is of) good practice (*adab*) to carry out the *aḥādīth* which lead to restraint and deterrence according to their literal meaning without any interpretation,⁹⁶

for, by interpreting them, they would go beyond the intention of the *shāri'*.⁹⁷ To illustrate this need for adhering to the literal meaning of the *aḥādīth*, al-Sha'rānī quotes some examples. For instance, if the *ḥadīth*:

Whoever deceived us is not from us,⁹⁸

is interpreted to mean, only "people with that quality of deceit are not from us"⁹⁹ then "anyone who did some other wrong could use that statement to claim that they come within those terms, thereby making others accept them as good members of the community."¹⁰⁰ It is due to this that pious predecessors refrained from interpreting the sayings of the *shāri'*, instead they considered it "meritorious to follow the *shāri'*."¹⁰¹

Then, al-Sha'rānī narrates that Ja'far al-Ṣādiq,¹⁰² Muqātil b Ḥabbān¹⁰³ and others went to see Abū Ḥanīfah and said to him:

It has reached us that you employ *qiyās* excessively in the religion of God, the Lofty, the first one to employ *qiyās* was *Iblīs*. Therefore, do not use *qiyās*.¹⁰⁴

To this the learned *imām* Abū Ḥanīfah replied that what he had said was not *qiyās*, in fact, "it is from the *Qur'ān*."¹⁰⁵ For God, says:

We have not left out anything in the Book.¹⁰⁶

Therefore, according to al-Sha'rānī, what the jurists, and he includes himself among them, maintain is that it is not *qiyās* in the same sense,¹⁰⁷ but it is only a *qiyās* for those to whom God has not given the understanding of the *Qur'ān*.¹⁰⁸

The same could be the case for those who have not followed the *ṣūfi* path (*sulūk*).¹⁰⁹ For, "people of *kashf* do not stand in need of *qiyās*, due to what they gain from their *kashf*."¹¹⁰ In elucidating their non-dependance on *qiyās*, al-Sha'rānī raises the question of beating parents as an example.¹¹¹ He says in this regard that if anyone were to bring to the attention of the *ahl al-kashf*, the prohibition of beating parents saying that the *Qur'ān* has not mentioned clearly about beating of parents, then from where did they (meaning the *ahl al-kashf*) find the prohibition?¹¹² To this, al-Sha'rānī quotes the relevant *Qur'ānic* verses from where both the '*ulamā*' and the *ahl al-kashf* took their evidences.¹¹³ To the '*ulamā*', al-Sha'rānī says, the *Qur'ānic* verse:

Do not say to them "Uff!"¹¹⁴

is taken as prohibition. But, this is not acceptable with the *ahl al-kashf*.¹¹⁵ For, according to the author, they argue that it is not from the above verse, instead it is taken from the saying of God:

And be kind to the parents.¹¹⁶

Thus, one can know that "beating them is not kind."¹¹⁷ As such there is no need for *qiyās*.¹¹⁸ It seems that, al-Sha'rānī approves the use of *qiyās* for those who need it. In this regard, he quotes the saying of his mentor 'Alī al-Khawwās:

It is valid to introduce *qiyās* for those who need it and for those do not need it according to the two sides of the balance. Thus, one who burdens the people to scrutinize the proofs and to deduce parallels (*nazā'ir*) from the *Qur'ān* has (indeed) made it *tashdīd*, whereas, one who did not burden them with that had indeed made it *takhfīf*. And there are always among the people those who are capable of deducing (laws) and those who are incapable.¹¹⁹

Concerning the status of the laws deduced by the *mujtahids* by way of *qiyās*, al-Sha'rānī quotes the opinion of Ibn Ḥazm¹²⁰ that " the totality

of what the *mujtahids* had deduced is considered as an integral part of the *sharī'ah* even though its proof is hidden to the general public."¹²¹ As such, whoever denies that, has "indeed accused the *a'immaḥ* of having committed a mistake by having legalised what God had not permitted."¹²² And for those who maintain this, al-Sha'rānī suggests that it would be considered as "straying away from the path,"¹²³ whereas the truth is that "it is obligatory to believe that had they not seen any evidence for that, they would not have made it part of the law."¹²⁴

So, according to al-Sha'rānī, in the case of deduction, the matter is referred to the two sides of the balance.¹²⁵ For, he says that "whoever commands the people to follow all that has been legalised by the *mujtahids* has indeed made it *tashdīd*, while those who only command them to do what had been made clear by the *sharī'ah* or that on which the '*ulamā*' have reached their collective consensus has made it *takhfīf*."¹²⁶

Regarding the accusation levelled against Abū Ḥanīfah of giving precedence to *qiyās* over the *naṣṣ*, al-Sha'rānī says, "had he lived until the *shara'ī aḥādīth*¹²⁷ were compiled...he would certainly have taken it (meaning the *ḥadīth*) and (would have) abstained from all *qiyās* (which) he used to exercise."¹²⁸ Further, al-Sha'rānī stresses that the accusation could, however, be true in respect of Abū Ḥanīfah's followers "who cling on to the practice of *qiyās* which they found from their *imām* and leave out the *ḥadīth* which has been validated after the demise of the *imām*."¹²⁹ As such, the author maintains that the *imām* is excused, whereas his followers are not.¹³⁰ Thus, their refusal to act according to a *ḥadīth* validated after their *imām*'s demise by saying that Abū Ḥanīfah did not act according to this particular *ḥadīth* will not stand as a proof.¹³¹ For, it is

possible that he might not have succeeded in procuring the *ḥadīth* or he might have succeeded but that particular *ḥadīth* might not have been valid according to him, since the obligation to act according to a *ḥadīth* will arise only when that *ḥadīth* is valid in his understanding.¹³²

As for the saying of the *a'immaḥ*, "if the *ḥadīth* is valid, then it is our *madhhab*,"¹³³ al-Sha'rānī says that for one who has with the *ḥadīth* a *qiyās* or a *ḥujjah*,¹³⁴ it is not allowed to exercise choice between them, except "by submission to God and His Messenger."¹³⁵ In elaborating Abū Ḥanīfah's *qiyās*, al-Sha'rānī says that the majority of his *qiyās* are from the *qiyās jalī*¹³⁶ by which "the agreement of the branch to the root is known, and by which their separation is denied or broken."¹³⁷ For instance, Abū Ḥanīfah's *qiyās* of a dead thing other than rat, if it falls on butter, is based on the issue of a rat falling on things other than butter.¹³⁸ Thus, according to al-Sha'rānī, having claimed to have examined the religious issues in which the disciples of Abū Ḥanīfah had given precedence to *qiyās* over the *naṣṣ*, such occurrences are very few indeed. While in the remainder of the *madhhab*, *naṣṣ* has been given precedence over the *qiyās*.¹³⁹

However, in the opinion of a Mālikite scholar, who has been, according to al-Sha'rānī, quoted by Ibn 'Arabī, *qiyās* should be given precedence over the *khābar al-āḥād*.¹⁴⁰ This is because, the scholar maintains none will act according to that *ḥadīth* "except by (having) a good opinion of its narrators."¹⁴¹

Al-Sha'rānī says how he has exercised *qiyās* on a religious issue on which there is no clear textual proofs. That is on the issue of the nullification of the ablution by touching a young girl for whom he has no

desire.¹⁴² He says, according to Dāwūd al-Zāhirī,¹⁴³ the touching of a young girl without any desire will nullify one's ablution, even though there is no clear textual evidence.¹⁴⁴ However, al-Sha'rānī argues that God has applied the noun *al-nisā'* (women) to *al-atfāl* (children) in His saying:

They (i.e.: the Pharaohs) slaughtered their sons (*abnā'ahum*) and kept alive their women (*nisā'ahum*).¹⁴⁵

As such the word *al-nisā'* in the saying of God:

Or (if) you had come in contact with women,¹⁴⁶

indicates, by way of *qiyās*, also the female children. Thus, the touching of a female child also nullifies one's ablution.¹⁴⁷

Ra'y:

The position of *ra'y* in *Islāmic* jurisprudence has been an issue which has attracted much debate in scholarly circles. Scholars have expressed their views variously, nevertheless, they were unanimous in their rejection of *ra'y* in respect of religion. Al-Sha'rānī is no exception. He has attempted to put forward his stand on this issue through devoting five sections in his *al-Mizān*, in which he puts forward evidence through quotations from scholars preceding him.¹⁴⁸ He has attempted to address this issue in the following way:

- The nature of *ra'y*
- The stand of the Prophet, *ṣaḥābah*, *tābi'īn*, and the *tab' al-tābi'īn*
- The stand of the four *a'immaḥ*

Defining *ra'y*, al-Sha'rānī quotes al-Bayhaqī as saying in his *Sunan al-Kubrā*¹⁴⁹ that the blameworthy *ra'y* is all that which is not comparable to a basic principle (*aṣl*).¹⁵⁰ According to him, "Whatever blame can be made against *ra'y* only applies to this meaning."¹⁵¹ By a basic principle he means a *Qur'ānic* verse, a *ḥadīth*, *ijmā'* or an accepted *qiyās*. This definition is self-explanatory in stating that it is only the blameworthy *ra'y* which is condemned in *Islām*, and not *ra'y* per se, since there is also a praiseworthy side to it. Al-Sha'rānī seems to consider *ra'y* in respect of *dīn* as blameworthy. This is evident from the quotations he has cited. He quotes the Prophet as saying:

- It is obligatory for you all to hold fast to my *sunnah* and the *sunnah* of the *khulafā'* after me and you all grip them with the canine teeth. I Warn you from innovated thing. For every innovated thing is an innovation and every innovation will lead you astray.¹⁵²

- All action in which there is no command by us, is rejected.¹⁵³

- If you intend not to be made to wait on the bridge (even) for a wink of an eye, then do not innovate, in respect of the *dīn* of God, anything according to your *ra'y*.¹⁵⁴

He goes on to say that even the *ṣaḥābah* and the successive waves of the *tābi'īn* and the *tab' al-tābi'īn* were opposed to the use of blameworthy *ra'y* in respect of *dīn*. For instance, 'Abd Allāh b Mas'ūd is reported to have said, "Learn the *'ilm* before the arrival of those who speculate (*al-zānnīn*)."¹⁵⁵ 'Umar b al-Khaṭṭāb used to state clearly when issuing a *fatwā*, "It is a *ra'y* of 'Umar, therefore, if it is correct then it is from God, and if it is wrong then it is from 'Umar."¹⁵⁶ He is also quoted as saying,

By One in Whose Hand is the soul of 'Umar, God, the Lofty, did not take away the soul of the Prophet...and did not stop the revelation from him until He made his *ummah* as a whole needless of *ra'y*.¹⁵⁷

Further he warns the Muslims that there will come a people who will argue with them (i.e.: with the believers) in respect of the ambiguous *Qur'ānic āyāt*. In such a situation, according to 'Umar, the Muslims should admonish them with the *sunnah*. For the masters of the *sunan* are more learned in the Book of God.¹⁵⁸ Elaborating this, Abū Sulaymān al-Khaṭṭābī¹⁵⁹ says that the masters of the *sunan* being *ḥuffāẓ* of the *ḥadīth*, are comparable to the *a'immaḥ* of the *mujtahids* and the most perfect among their followers, since they are the only ones who could understand the rules contained in the *sunan*.¹⁶⁰

Al-Sha'rānī maintains that, Mujāhid,¹⁶¹ 'Aṭā' and Mālik b Anas used to say that there is none whose word is taken or refuted, except the Messenger of God, meaning that the opinions of those other than the Prophet are not held sacred.¹⁶² While al-Sabī'ī¹⁶³ condemned a person who criticised a *ḥadīth* which encourages the believers to strive after knowledge.¹⁶⁴ Al-Sha'rānī narrates an incident where it was said to a singer at the court of the *khalīfah* that Mālik b Anas prohibited singing.¹⁶⁵ So, the singer asked "Has Mālik and his like any right to make prohibitions about the *dīn* of Ibn al-Muṭṭalib (i.e.: the Prophet)? And by God, O, *amīr al-mu'minīn*, it was not (the right of) the Messenger of God...to prohibit (a thing) except through a revelation from his Lord...whereas the Exalted has said, 'to judge between the people according to what God has made you see,'¹⁶⁶ and He did not say 'according to what you opined, O, Muḥammad.' Therefore, had the *dīn* been according to *ra'y*, then the *ra'y* of the Messenger of God...would certainly not have stood in need of a revelation. Whereas God ordered him to act according to it. Nay, God reprimanded him when he prohibited what had been prohibited in the story of Mary, through saying, 'O, you Prophet, why did you prohibit that

which God has permitted for you."¹⁶⁷ From this it becomes clear that even the Prophet was not permitted to exercise *ra'y* in respect of the *dīn*. Then al-Sha'rānī asks, if this was the speech of the said singer, then how would the speech of those '*ulamā*' who adhere to the *Qur'ān* and the *sunnah* have been?¹⁶⁸

Hamdān b Sahl¹⁶⁹ used to say, "Had I been a judge I would certainly have imprisoned both these men: the one who seeks after the *ḥadīth* but not the *fiqh*; and the one who seeks after the *fiqh* but not the *ḥadīth*."¹⁷⁰ While referring to the *a'immaḥ* he said that they sought after the *ḥadīth* together with *fiqh* and they did not stop at one of them. Al-Sha'rānī quotes Ja'far al-Ṣādiq as saying, "One of the great calamities for the *a'immaḥ* is when a group of people judge an issue according to their *ra'y*, and thus prohibit what God has permitted and permit what He has prohibited."¹⁷¹ In the opinion of al-Sha'bī, "There will come a group of people who will judge the issues according their *ra'y*, by that *Islām* will be demolished and discredited."¹⁷² "It is obligatory for you all," says Wakī',¹⁷³ "to follow the *a'immaḥ* of the *mujtahids* and *muḥaddiths*, for they write what belongs to them and what is against them, as opposed to the people of *ra'y*, because they never write that which is against them."¹⁷⁴

Aḥmad b Surayj considers the people of *ḥadīth* higher than the *fuqahā'*, owing to their carefulness in ascertaining the principles.¹⁷⁵ And Ibn Mas'ūd says that whoever has been asked about something which he does not know, should say, 'God knows best.'¹⁷⁶ For the Lofty, said to the Prophet:

Say (O, Muḥammad) I do not ask you for any reward and I am not of the *mutakallifīn*.¹⁷⁷

Al-A'mash¹⁷⁸ used to say, "It is obligatory for you to preserve the *sunnah* and teach it to the children. For they will keep watch over the people (in respect of) their *dīn*, when their time comes."¹⁷⁹ Abū Bakr b 'Ayyāsh¹⁸⁰ used to say that people of *ḥadīth* in every period are like the people of *Islām* amidst (*ma'a*) the people of other religions.¹⁸¹ And the meaning of the term "people of *ḥadīth*" comprises the people of *sunnah* among the *fuqahā'* even though they are not *ḥuffāz*.¹⁸² 'Umar b 'Abd al-'Azīz¹⁸³ is reported to have said, "If you see a group of people whispering secretly among themselves about a religious matter, then bear witness that that is a misguidance and an innovation."¹⁸⁴ While quoting the *Qur'ān*, al-Khaṭṭābī says, "It is obligatory for you to abstain from arguments (*al-jidāl*) in respect of *ḥadīth* and the opinions of the *a'immaḥ*, for God has said, 'None shall argue in respect of the Signs of God, except those who are infidels'. There will be no atheism or innovation or unbelief or the courage to stand against God (*jarā'ah*), except by way of argument and dialectics."¹⁸⁵

Al-Sha'rānī says that even the four *a'immaḥ* were against the use of *ra'y*.¹⁸⁶ He says that the first one to free himself from the accusation was Abū Ḥanīfah himself, since he has been criticised by others for employing *ra'y*.¹⁸⁷ However, al-Sha'rānī maintains that anyone, in whose heart there is light, will not have the courage to mention anything bad about any one of the *a'immaḥ*.¹⁸⁸ He asks what is the position of the one who questions the *a'immaḥ* with regard to the position of the *a'immaḥ*?¹⁸⁹ For the *a'immaḥ* are like the stars in the sky and those other than them are like the people of the earth who do not know about the stars except their images on the surface of the water.¹⁹⁰ Ibn al-'Arabī has narrated in his *al-Futūḥāt al-Makkiyyah* that Abū Ḥanīfah used to say, "I warn you not to opine in

respect of the *dīn* of God with *ra'y*, it is obligatory for you all to follow the *sunnah*. Thus, whoever goes out from it has indeed gone astray."¹⁹¹ Abū Ḥanīfah also used to say, "It is prohibited for anyone who does not understand my proofs to issue a *fatwā* based on my speech."¹⁹² And he, when issuing a *fatwā* says, "This is the *ra'y* of Abū Ḥanīfah; this is the best of what we were able to do. Therefore, whosoever brings forth a better one than it, is most eligible to be rewarded."¹⁹³

A man from Kūfah called on him while *ḥadīth* was recited before him, then the man said: "Spare us from these *aḥādīth*."¹⁹⁴ Abū Ḥanīfah rebuked him severely and said to him: "Was it not for the *sunnah*, none of us would have understood the *Qur'ān*."¹⁹⁵ Then he asked the man, "What do you say about (eating) the flesh of monkeys and where is the evidence for it in the *Qur'ān*?" Then the man asked Abū Ḥanīfah, "What do you say about it?". Then he said, "it is not included among the category of grazing cattle (*an'ām*)?"¹⁹⁶ Therefore, this is sufficient proof to indicate the stand of Abū Ḥanīfah in respect of exercising *ra'y* in matters of *dīn* to which neither the apparent meanings of the Book nor the *sunnah* will bear witness. Further, al-Sha'rānī quotes him as saying, "It is obligatory for you to take hold of the *āthār* of the predecessors and I warn you all from (acting according to) *ra'y* of men when they have decorated it with (convincing) arguments, for the matter will become clear when it becomes clear, while you are all on the straight path."¹⁹⁷ Abū Ḥanīfah warns the Muslims against innovations and urges them to hold fast to "the original matter (*al-amr al-awwal al-ʿatīq*)."¹⁹⁸

Once a man entered Kūfah with a Book by the Prophet Daniel, and Abū Ḥanīfah almost fought him saying, "A book other than the *Qur'ān*

and the *ḥadīth*!"¹⁹⁹ And it was said to him once: "What do you say about the theological discussions (*kalām*) which people have introduced concerning (matter like) accidents (*'arḍ*), atom (*jawhar*) and substance (*jism*)?"²⁰⁰ Then he said, "These are philosophical discussions. But it is obligatory for you all to (act according to) the *āthār* and the path of the *salaf*. And I warn you from every novelty for, it is an innovation."²⁰¹ And it was said to him once, "The people have abstained from acting according to the *ḥadīth* whereas they are interested in hearing it."²⁰² Then he said that their listening to the *ḥadīth* itself is considered as acting according to it.²⁰³ Abū Ḥanīfah firmly believes that people will continue to adhere to the path of righteousness as long as there is with them one who seeks after the *ḥadīth*, for if they seek knowledge without the *ḥadīth* then they will be misguided.²⁰⁴ He even cursed 'Amr b 'Ubayd²⁰⁵ for introducing the people to dialectics which does not concern them.²⁰⁶ He used to say that it is needless for anyone to give an opinion until he knows that the *sharī'ah* of the Messenger will accept it.²⁰⁷ Moreover, he used to gather the '*ulamā*' in respect of every issue in which he did not find any clear textual evidences in the Book and the *sunnah*, and he acted according to what they agreed upon.²⁰⁸ It is said that whenever Abū Ḥanīfah deduced a legal rule, he would not write it down until the '*ulamā*' of his time reached a consensus on it. Then if they were pleased with it, he would say to Abū Yūsuf, "Write it down."²⁰⁹ Therefore, al-Sha'rānī questions the reader as to how it was possible for a person of this stature to have been accused of employing *ra'y* in respect of the *dīn*.²¹⁰ Defending Abū Ḥanīfah, he quotes the author of *al-Fatāwah al-Sirājiyyah*:²¹¹

There used to take place between Abū Ḥanīfah and his disciples what did not take place with others. He based his *madhhab* on consultation (*shūrā*). He did not monopolise (*yastabidḍa*) the settling of problems. Rather he would put problem after problem to his disciples so that he

would know their attitude. He would then give his attitude and debate with them until one of the two views was decided upon (*yastaqirra*). Abū Yūsuf bears witness to this just as he bears witness to all the principles (of the Ḥanafī *madhhab*). Through his understanding, Abū Ḥanīfah attained what was impossible for (many) men of great talent (*al-qarā'ih*).²¹²

Al-Sha'rānī then mentions Mālik's stand on this issue. He is quoted as saying, "I warn you about the *ra'y* of men, except if they reached a consensus on it. Whereas, you all follow what has been revealed to you from your Lord and that which came from your Prophet. And if you do not understand the meaning, then turn to your '*ulamā*' and do not argue with them, for, verily argument in respect of the *dīn* is a remnant of hypocrisy."²¹³ While his disciple, Ibn al-Qāsim, says, "Nay, it is hypocrisy as a whole because arguing with falsehood in respect of the truth with the '*ulamā*' is like arguing with the Messenger of God, by virtue of the fact that the truth is his *shara'*, irrespective of the position of the one who argues in respect of the *dīn*."²¹⁴ He also used to say, "Submit to the *a'immaḥ* and do not argue with them. If we were (to do that) everytime a man came along who disputed with the teacher (*rajul*) whom we followed, we would fear that we might fall into (the error of) rejecting what Gabriel had brought."²¹⁵ Whenever Mālik deduced a rule, he used to say to his disciples, "Think it over, for it is *dīn*. And the sayings of all people are refuted except the Master of this garden,"²¹⁶ meaning the Messenger of God.

Ibn Ḥazm quotes Mālik as saying on his death bed, "I have certainly wished now that I beat myself with a lash over all the religious issues in which I have exercised *ra'y*, and I do not want to meet the Messenger of God with a thing I have added in respect of his *sharī'ah* or I have opposed him in its apparent (meaning)."²¹⁷ It is owing to this that Mālik prevented

the narration of *ḥadīth* in terms of meaning only to a man who understands out of fear that the narrator might add something to or take away something from it.²¹⁸

Al-Sha'rānī says that he saw the Prophet saying to him in a dream of glad tidings (*jumlātan mubshiratan*),²¹⁹ "It is obligatory for you to study the opinion of the *imām* of my Dār al-Hijrah²²⁰ and to stick to that, for he has indeed witnessed my signs (*āthār*)."²²¹ Thereafter, al-Sha'rānī began to study *al-Muwattā'*²²² and *al-Mudawwanah al-Kubrā*.²²³ In the course of his study, he summarised them and selected issues in which Mālik had differed from the rest of the *a'immaḥ*. He saw that Mālik was stopping at the boundaries of the *sharī'ah* and was hardly crossing it. There al-Sha'rānī came to know that to remain at the limits of what has been narrated is better than innovation, even if the innovation is to seek good, for the *shārī'* may perchance not be pleased with those additions in prohibitions or obligations.²²⁴

In respect of what has been quoted from al-Shāfi'ī of the blameworthiness of *ra'y* and his renunciation of it, al-Sha'rānī quotes Al-Harawī²²⁵ as having narrated from al-Shāfi'ī that the latter used to say that the *ḥadīth* of the Messenger of God is sufficient by itself if it is valid.²²⁶ That is it does not stand in need of a *ra'y* which will support it if its proof is valid, for, as mentioned earlier, the *sunnah* judges the *Qur'ān* and not vice-versa.²²⁷

When Aḥmad b. Ḥanbal asked al-Shāfi'ī about *qiyās*, he said that it should be exercised only when absolutely required (*al-ḍarūrāt*).²²⁸ He is also reported to have said, "Was it not for the people of inkwell, atheism would have been preached from the *manābir* (pulpits),"²²⁹ meaning that

the compilers of the *aḥādīth* have saved *mukallafs* from falling into unbelief. In al-Shāfi'ī's opinion, if a *ḥadīth* is directly connected (in its chain) to the Prophet, then it is the *sunnah*. However, the consensus is considered greater than the *ḥadīth*, if it is a *tawātur*.²³⁰ Al-Shāfi'ī maintains that a *ḥadīth* should be conveyed according to its literal meaning, but if it carries more than one meaning, then it should be interpreted according to that which agrees with the literal meaning.²³¹ Moreover, al-Shāfi'ī considers the people of *ḥadīth* in every period to be like the *ṣaḥābah* in their time.²³² He says, "If I see a man of *ḥadīth*, (I feel) as though I have seen one of the *ṣaḥābah* of the Messenger of God."²³³ And he warns the *mukallafs* from acting according to the *ḥadīth* which was brought from the country of those who exercised *ra'y*, except after investigating it.²³⁴

Regarding the indulgence of a *mukallaf* in dialectics, al-Shāfi'ī says, "He is as though he has entered the sea in a state of turbulence."²³⁵ Then it was said to him "O, Abū 'Abd Allāh, it is concerning '*ilm al-tawḥīd* (Doctrine of Divine Unity)."²³⁶ Then he said, "I have indeed asked Mālik about *tawḥīd*, and he said, it is that by which a man enters *Islām* and by which his blood and wealth are protected. And it is the saying by a man that he bears witness that there is no god except God and he bears witness that Muḥammad is a Messenger of God. However, if any one were to say, 'the name is other than the named' or '(the name is the named one) in essence,' then testify that he is an atheist."²³⁷

Whenever al-Shāfi'ī stopped at a *ḥadīth*, he used to say, "If that is valid, (then) we would certainly opine according to it."²³⁸ And al-Bayhaqī narrates from him saying in respect of the *mustaḥādah*²³⁹ who

has washed away the trace of blood from her self and performed *ṣalāt*, that she should take ablution for every *ṣalāt* performed thereafter.²⁴⁰ He says that if this *ḥadīth* is valid, then he would certainly have adopted it, for "the *sunnah* of Muḥammad in respect of ablution for what came out from the *qubl* (forepart) and *dubur* (hindpart) is more loved by us than the *qiyās*."²⁴¹ Moreover, al-Shāfi'ī says, "If a thing is established from the Prophet...(let) my father and my mother be sacrificed (for him), it is not permitted for us to abstain from it,"²⁴² for "the Messenger of God is too great in our eyes that we should love something other than what he judged."²⁴³

And al-Shāfi'ī says in the chapter on hunting from *al-Umm*²⁴⁴ that everything that opposed the command of the Prophet will become null and void and neither the *ra'y* nor the *qiyās* will be of any support to it.²⁴⁵ For God has asserted the responsibility (*'udhur*) through the Prophet, thus, it is not for anyone to command or to prohibit a thing other than what the Prophet has commanded.²⁴⁶ In the chapter of *mu'allam* (an animal hunted by tracking) which is eaten as a result of hunting, if a *khavar*²⁴⁷ is established as being from the Prophet, no one is permitted to abandon anything of it.²⁴⁸ And in the chapter of the manumission of a slave al-Shāfi'ī says, "There is not a proof in the opinion of anyone, even though they were (great in) numbers, in relation to the Messenger of God."²⁴⁹ All these references indicate that al-Shāfi'ī was free from exercising *ra'y* and that he showed respect before the Prophet. Not only that, he also showed respect with the opinions of the *ṣaḥābah*.

Ibn al-Ṣalāh quotes al-Shāfi'ī, in his *'Ulūm al-Ḥadīth*,²⁵⁰ as saying in his earlier *Risālah*,²⁵¹ after praising the *ṣaḥābah* with that which befits

their status, "The *ṣaḥābah* are above us in respect of all knowledges, *ijtihād*, piety, intellect and in every matter in which their knowledge and opinions have corrected us and is more praiseworthy and better than our *ra'y*." ²⁵²

In support of the renunciation of Aḥmad b Ḥanbal from exercising *ra'y*, al-Sha'rānī quotes al-Bayhaqī that Ibn Ḥanbal used to say:

Has any one got the right to put forward a view in the presence of the Messenger of God? ²⁵³

It is for this reason that he did not produce a legal manual like the other *mujtahids*, fearing that such action would induce one to go against the *sharī'ah*. ²⁵⁴ The fact that his entire *madhhab* has been patched together from the hearts of men is sufficient to stress that he disapproved of the use of *ra'y*. ²⁵⁵ According to what Shihāb al-Dīn al-Ḥanbalī al-Futūhī informed al-Sha'rānī, Ibn Ḥanbal had laid down only about twenty issues on *ṣalāt*. ²⁵⁶ It has been noted that he did not eat melon until he died, and when he was asked he said, "It has not reached me how the Messenger of God ate it." ²⁵⁷ And when he was hiding at the time of the *miḥnah*, ²⁵⁸ he came out from his hideout after the third day. When he was told of the danger of getting caught, he said, "Verily the Messenger of God did not stay in the cave when he was hiding from the *kuffār* for more than three days." ²⁵⁹ He used to say, "We do not usually see anyone looking into the books of *ra'y*, except when there is a doubt in his heart." ²⁶⁰ According to his son 'Abd Allāh, ²⁶¹ when he asked Ibn Ḥanbal about a man who was in a place where he could not find a man of *ḥadīth* who knew a valid *ḥadīth* from an invalid one, and a man of *ra'y*, which of them should be asked about the *dīn*. Then he said, "The man of *ḥadīth* should be asked", for "a weak *ḥadīth* is more desirable to us than a *ra'y* of men." ²⁶²

Fatwā:

Al-Sha'rānī maintains that even in issuing a *fatwā* to the *mukallafs*, the '*ulamā*' acted according to the two categories of *takhfīf* and *tashdīd*.²⁶³ They did not issue a *fatwā* with a general application. Thus, they "did not command an able person to perform a *rukḥṣah* nor a weak person an '*azīmah*."²⁶⁴ In other words, none of the *a'immaḥ* used to issue a *fatwā* to anyone to perform a *rukḥṣah* except if he saw that he was incapable of performing the '*azīmah* and he would only issue a *fatwā* for someone to perform something when he saw that they were capable of performing it.²⁶⁵ In this respect, al-Sha'rānī mentions those '*ulamā*' of both the earlier and the later generations, who issued a *fatwā* according to the four *madhāhib*. Among the '*ulamā*' whom he describes as coming from the earlier generation, al-Sha'rānī mentions particularly Abū Muḥammad al-Juwaynī²⁶⁶ and Ibn 'Abd al-Barr al-Mālikī, who used to issue a *fatwā* according to the four *madhāhib*.²⁶⁷ Al-Sha'rānī repeatedly states in his *al-Mīzān* that al-Juwaynī wrote his book *al-Muḥīṭ*²⁶⁸ "in which he did not confine himself to any one *madhhab*."²⁶⁹ Even Ibn 'Abd al-Barr used to say that "every *mujtahid* is in the right."²⁷⁰ This is because, they were "either acting by saying what has been mentioned owing to their studying from the spring of the *sharī'ah* and from the diversity of the opinions of all the '*ulamā*'"²⁷¹ whom al-Sha'rānī had studied, or they were "saying that in so far as the *shārī'* approved the rule of the *mujtahid* who deduced it from the Book of God, or from the tradition of His messenger."²⁷² 'Izz al-Dīn b Jamā'ah,²⁷³ as al-Sha'rānī maintains, used to issue a *fatwā* to an '*āmmī* according to the *madhhab* of anyone of the *imāms*, and would command that person to follow all the

conditions laid down by that *imām* in the *fatwā* that he had given.²⁷⁴ He is also reported to have said to such a person that if he were to "leave any one of his (i.e. the *imām*'s) conditions his *'ibādah* would not be valid either according to his own *madhhab* or according to the (*madhāhib*) of others."²⁷⁵ For, according to 'Izz al-Dīn, "The *'ibādah* (performed by way of) piecing together (the actions) from any *madhāhib* is not valid, even if it integrates the conditions of all those *madhāhib*."²⁷⁶ That is owing to the precaution in respect of matters concerning the religion and the fear that such a practice would cause a defect in the act of worship (*'ibādah*) of any Muslim.²⁷⁷

Among the later generation of '*ulamā*' who used to issue *fatwā* according to the four *madhāhib*, al-Sha'rānī mentions the names of 'Abd al-'Azīz al-Dīrīnī,²⁷⁸ Shihāb al-Dīn al-Burullusī popularly known as Ibn Uqayṭa',²⁷⁹ and 'Alī al-Nabtiyatai al-Ḍarīr.²⁸⁰ Al-Sha'rānī specifically mentions al-Dīrīnī, quoting the latter's book *al-Durar al-Multaqīṭah fī al-Masā'il al-Mukhtalifah*,²⁸¹ in which the author issued a *fatwā* according to the four *madhāhib*.²⁸² He also mentions that Jalāl al-Dīn al-Suyūṭī reported that a great number of '*ulamā*' from whom he transmitted "used to issue *fatwā* to people according to the four *madhāhib*, especially to the general public who neither tied themselves to any one *madhhab* nor understood its principles or its texts."²⁸³ In this way when the action of the *mukallaf* "was in conformity with the opinion of an '*ālim*, it was acceptable."²⁸⁴ Al-Sha'rānī then seeks to explain how it is that when the '*ulamā*' themselves were followers of *madhāhib*, they were allowed to issue *fatwā* to others according to another *madhhab* when it would have been expected that it was important for the follower not to depart from the opinion of his *imām*.²⁸⁵ In response to this problem, al-

Sha'rānī states that it may be possible that "one of the '*ulamā*' had reached the status of absolute *ijtihād*."²⁸⁶ This absolute *ijtihād* is related to the *imām* and the one who "possesses it would not be departing from the principles of his *imām* when he issued a *fatwā*."²⁸⁷ Al-Sha'rānī mentions that people like Abū Yūsuf, Muḥammad b al-Ḥasan, Ibn al-Qāsim, Ashhab,²⁸⁸ al-Muzanī, al-Ṭaḥāwī, Ibn Mundhir²⁸⁹ and Ibn Surayj belong to this category.²⁹⁰ However, it will be noticed that most of these scholars are all very much earlier than those whom al-Sha'rānī mentioned as being in the earlier generation. However, al-Nawawī belongs to the latest. According to al-Sha'rānī, when all of these scholars issue *fatwā* to the people on that which their *imām* did not clearly speak about, then they, by that act, will not be departing from his principles.²⁹¹

This ability to issue a *fatwā* according to more than one *madhhab* would not have been easy for any one, "if he had not studied the arguments of the four *a'immaḥ*."²⁹² In this respect al-Sha'rānī quotes his master 'Alī al-Khawwāṣ as saying:

Our belief in respect of all the great personalities of the '*ulamā*' is that they did not accept one another except due to their knowledge of the validity of their opinions and whatever evidences (*mustanadāt*) they uphold and those opinions connecting with the spring of the *sharī'ah* (and) not by having good opinion about them without studying their validity and their connection with the spring of the *sharī'ah*.²⁹³

Thus, according to al-Sha'rānī, none of the '*ulamā*' would accept the opinion of another without studying the connection of that opinion with the spring of the *sharī'ah*.²⁹⁴ For he believes that God might have shown to these '*ulamā*' the spring of the first *sharī'ah* where they witnessed the connection of all the opinions of the leaders of the *mujtahids* with it and that they issued *fatwā* to people on the basis of the two sides of the balance and not on the basis of generality.²⁹⁵

However, al-Sha'rānī then states that it is sometimes possible for scholars like the ones that he has mentioned to choose a course of action which would be different from what the *imāms* had specified to him in a text.²⁹⁶ Similarly it would be possible for them to follow the opinion of their *imām*, as a result of their studying the connection of that opinion with the spring of the *sharī'ah*.²⁹⁷ At that time, that chosen opinion would be on a par with that of his *imām*, like the opinions of Zufar,²⁹⁸ Abū Yūsuf, Ashhab, Ibn al-Qāsim, al-Nawawī, al-Rāfi'ī, al-Ṭahāwī and others among the followers of the *mujtahids*.²⁹⁹ On the other hand it was also possible that someone might not issue a *fatwā* according to the opinion of his own *imām*, because he might not have studied the proofs of his *imām* and instead issued it due to his belief in the validity of the opinion of another *imām*,³⁰⁰ since all "the *a'immaḥ* are guided by their Lord."

Therefore, he stated that, it was obligatory to believe that all the *a'immaḥ* used to issue *fatwā* to every individual according to what befits his conditions of the *takhfīf* and *tashdīd*, even though they themselves might not act according to it.³⁰¹ For, it is the recipient of the *fatwā* who is "addressed by it"³⁰² and thus "qualified for it."³⁰³ Thus it is not right to issue a *fatwā* to a Shafi'ite on the basis of a Ḥanafī opinion. An example which he gives is the case of allowing a Shafi'ite who touched his private parts to perform his *ṣalāt* without renewing his ritual purification. This is something that is allowed according to Abū Ḥanīfah but not allowed by al-Shāfi'ī.³⁰⁴

Al-Sha'rānī cautions the '*ulamā*' not to issue a *fatwā* in response to a speculative question but only for a matter which has occurred.³⁰⁵ In this respect, al-Sha'rānī quotes 'Umar b al-Khaṭṭāb as saying:

Verily God, the Lofty, creates for the people judgements according to their time and conditions.³⁰⁶

Thus, one should avoid issuing *fatwā* on an issue which has not taken place. For such endeavour is fruitless and irrelevant. He should not also issue *fatwā* to people except according to the "most preferred (opinion)."³⁰⁷ This is because, the *muqallid* only asked him (i.e.: the *imām*) "to issue him with a *fatwā* according to the most preferred (opinion) from the *madhhab* of his *imām* and not according to what he has."³⁰⁸ On the other hand, if the less preferred opinion is "more cautious in respect of the religion of the person who asked, then it is (required) of him to issue a *fatwā* according to the less preferred (opinion)."³⁰⁹ In that way there is no harm done. Al-Sha'rānī says that when Jalāl al-Dīn al-Suyūṭī claimed the status of the related absolute *ijtihād*³¹⁰ he used to issue *fatwā* to people "according to the most preferred (opinion) from the *madhhab* of *imām* al-Shāfi'ī."³¹¹ Then when he was asked why he did not issue *fatwā* according to the most preferred (opinion) with him, he said:

They did not ask me that, whereas they only asked me according to what the *imām* and his disciples have opined.³¹²

Therefore, al-Sha'rānī says, "It is required of one who issues a *fatwā* to people according to the four *madhāhib* to know the preferred opinion with the people of every *madhhab*,"³¹³ so that he could issue an appropriate *fatwā*. Or else, the former should inform the latter that he should depend on his (i.e.: the issuer of the *fatwā*) knowledge and religious conviction (*dīn*) and be happy with what he had issued according to the less preferred opinion.³¹⁴ In such cases there is no need to study the most preferred opinion in every *madhhab*.

Further, al-Sha'rānī maintains that the *fatwā* should be issued only when there is a genuine need for it. He quotes 'Abd Allāh b Mas'ūd as saying that whoever issues *fatwā* to people about every thing they asked him is "a madman."³¹⁵ This is because, the very nature of a *fatwā* is that it is revocable.³¹⁶ That is, a *mujtahid* could withdraw his earlier *fatwā* when new evidence emerges against it.³¹⁷ In this respect, al-Sha'rānī quotes Mujāhid as saying:

Do not write about me all that I issued *fatwā* on...(because), all things which I issued *fatwā* on to you today, I may perhaps turn away from tomorrow.³¹⁸

ENDNOTES TO CHAPTER FIVE

¹ *Al-Mizān*, 1:47.

² *Ibid.*, 1:37.

³ *Ibid.*, 1:46.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ It is the ascension of the Prophet to the precinct of God. It is said that he undertook the journey on the back of *Burāq* (a celestial animal) with Gabriel on his right and Michael on his left, from the *masjid al-harām* (i.e.: the Sacred Mosque at Makkah) to the *masjid al-aqṣā* (i.e.: the Farthest Mosque at Jerusalem) from where he ascended to the Divine Precinct. see *Tuhfat*, *op.cit.*, p. 88. see also McKane, W., "A Manuscript on the Mi'rāj in the Bodleian," in *JSS*, 2 (1957), pp. 366-76.

⁹ *Al-Mizān*, 1:46.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*, 1:46-7.

¹³ *Ibid.*, 1:47.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ For it is mentioned that during Prophet Noah's time people fasted for a whole day and broke it the following day. see note 8 on p. 81.

²¹ *Al-Mizān*, 1:6.

²² *Ibid.*, 1:28 and 46.

²³ *Ibid.*, 1:47.

²⁴ *Ibid.*, 1:16. In his *Ṭabaqāt al-Ṣuḡhrā*, al-Sha'rānī reports al-Suyūṭī as saying that he was accused by people that he had claimed the status of absolute *ijtihād* like one of the four *a'imma*h. He says, "That is a false accusation about me, for what I intended thereby was the related *ijtihād*. This is because the *ijtihād* is of two kinds: (1) *al-mujtahid al-muntasib al-mustaqil* (unrelated absolute *mujtahid*). This kind has been forfeited since the fourth century *hijrī*. Its presence now is inconceivable. No one had claimed it after *imām* al-Shāfi'ī, except Ibn Hajar in particular. (2) *al-mujtahid al-muntasib al-muṭlaq* (related absolute *mujtahid*). This kind still continues and will be so till the final hour. Among the disciples of *imām* al-Shāfi'ī, there are many who belonged to this category. They include people like al-Muzanī, Ibn Surayj, al-Qaffāl, Ibn Khuzaymah, Ibn Ṣabbāgh, *imām* al-Haramayn, Ibn 'Abd al-Salām, his disciple Ibn Daqīq al-'Id, Taqī al-Dīn al-Subkī and his son 'Abd al-Wahhāb. For once he wrote to the viceroy of Syria: 'I am a *mujtahid* of the world without exception. No one will be able to refute this word against me. All these *mujtahids* are *al-muntasib* (the related)'. Among the disciples of *imām* Mālik Ibn Wabb and his associates (*adhrāb*) had attained the status of absolute *ijtihād* in the *madhhab* of *imām* Mālik. Likewise Abū Yūsuf and Muḥammad among the disciples of Abū Ḥanīfah had attained the status of absolute *ijtihād*." [*TS*, pp. 17-8]. Further, al-Suyūṭī says that despite these claims they did not depart from the opinion of their *imām*. "Thus", he says, "whoever rejects absolute *ijtihād* is a *jāhil*." [*Ibid.*]. This absolute *ijtihād*, according to al-Suyūṭī, is not confined to *fiqh* or its *uṣūl*, in fact it is applicable to all fields of knowledge. That is why, al-Suyūṭī has claimed the attainment of absolute *ijtihād* in the fields of *ḥadīth*, *fiqh* and *lughah*, following his predecessor Taqī al-Dīn al-Subkī. Before him there were people who had claimed absolute *ijtihād*, but it was only in respect of *fiqh*. As far as those who had combined the above three fields of knowledge are concerned, they are very few indeed. No one has combined these fields after al-Subkī except himself (i.e.: al-Suyūṭī). [*Ibid.*, p. 22]. *Ijtihād* is a status, which if a man attains it, is called in the usage of the *muhaddiths* as a *ḥāfiẓ* (doctor of *ḥadīth*). There were people,

according to al-Sha'rānī, who had been attributed with absolute *ijtihād* but not the title *hāfiẓ*. They include people like Abū Ishāq al-Shīrāzī, Ibn Naṣr al-Ṣabbāgh, *imām* al-Ḥaramayn and al-Ghazzālī. All these men, in their works, take evidences by *aḥādīth* which are objectionable. [*Ibid.*, p. 23].

25 *Al-Mizān*, 1:16

26 *Ibid.*

27 *Ibid.*

28 *Ibid.*

29 *Ibid.*

30 He is Abū 'Abd Allāh 'Abd al-Raḥmān b al-Qāsim b Khālīd b Junādah al-'Utaqī, born in 132 h. and died in Cairo, in 191 h. see *Wafayāt*, 3:129-30; *al-Shīrāzī*, p. 44; *Tadhkirah*, p. 356; *Ibar*, 1:307; *Waraqah*, p. 44; *Tahdhīb*, 6:252; *Shadharāt*, 1:329; *Husn*, 1:121.

31 He is Abū 'Abd Allāh Aṣbagh b al-Faraj b Sa'īd b Nāfi'. He entered Madīnah on the day of Mālik's death. He studied from the latter's principal disciples like Ibn al-Qāsim, Ibn Wahb and Ashhab, died in 225 h. see *Dibāj*, p. 97; *Ibar*, 1:393; *Shadharāt*, 2:56; *Wafayāt*, 1:240.

32 He is Abū 'Abd Allāh Muḥammad b al-Ḥasan b Farqad al-Shaybānī, born in 132 h. and died in Ray in 189 h. see *Wafayāt*, 4:184-5; *Fihrist*, p. 203; *Tārikh*, 2:172; *al-Shīrāzī*, p. 135; *Shadharāt*, 1:321. see text on p. 364 no. 42.

33 He is al-Qādī Abū Yūsuf Ya'qūb b Ibrāhīm b Ḥabīb b Khunays b Sa'd b Ḥabtah al-Anṣārī, born in 113 h. and died in 182 h. in Baghdād. see *Wafayāt*, 6:378-90; *Fihrist*, p. 203; *al-Shīrāzī*, p. 134; *Taghribirdī*, 2:107; *Tadhkirah*, p. 292; *Ibar*, 1:284; *Shadharāt*, 1:298. see text on p. 364 no. 39.

34 He is Abū Ibrāhīm Ismā'il b Yaḥyā b Ismā'il b 'Amr b Muslim al-Muzanī, born in 175 h. and died in 264 h. see *Wafayāt*, 1:217-8; *Ibn al-Subkī*, 1:238. see text on p. 365 no. 58.

35 He is Abū Muḥammad al-Rabī' b Sulaymān b 'Abd al-Jabbār b Kāmil al-Murādī, died in 270 h. in Cairo. *Wafayāt*, 2:291-2; *Tahdhīb*, 3:245; *al-Shīrāzī*, p. 27; *Ibn al-Subkī*, 1:259; *Waraqah*, p. 27. see text on p. 365 no. 54.

36 *Al-Mizān*, 1:39.

37 *Ibid.*

38 *Ibid.*, 1:32.

39 *Ibid.*

40 *Ibid.*

41 *Ibid.*

42 *Ibid.*

43 *Ibid.*; *al-Qur'ān*, 4:83.

44 *Al-Mizān*, 1:32.

45 *Ibid.*

46 *Ibid.*, 1:17.

47 *Ibid.*

48 *Ibid.*

49 *Ibid.*

50 *Ibid.*

51 *Ibid.*, 1:32.

52 *Ibid.*

53 *Ibid.*

54 *Ibid.*

55 *Ibid.*

56 *Ibid.*

57 *Ibid.*, 1:26.

58 *Ibid.*

59 *Ibid.*

60 *Ibid.*

61 *Ibid.*, 1:30

62 *Ibid.*, 1:28 and 41; *Mājah*, *op.cit.*, p. 776.

63 *Al-Mizān*, 1:28, 41.

64 *Ibid.*; also see 1:56, 128, 145, 158, 179, 213, 2:114, and 167; *Bukhārī*, 3:87; *Muslim*, 3:123; *Nawawī*, 12:16; While Ibn Mājah quotes with slight variation in language, the text of which reads as, *man aḥdatha fī amrinā ḥadhā mā laysa minhu fahuwa raddun* [He who innovates something in this matter of ours which is not of it, will have it rejected] *Mājah*, 1:7; also quoted by *Muslim*, 3:123.

65 *Al-Mizān*, 1:28.

66 *Ibid.*

67 *Ibid.*

68 *Ibid.*

69 *Ibid.*, 1:31.

70 *Ibid.*

71 *Ibid.*

72 *Ibid.*

73 *Ibid.*, 1:32

74 *Ibid.*, 1:19.

75 *Ibid.*

76 *Ibid.*

77 *Ibid.*

78 *Ibid.*, 2:166.

79 *Ibid.*, 1:58.

80 i.e.: one who has ascertained the truth, a term used to denote the *ṣūfīs*.

81 *Al-Mizān*, 1:75.

82 *Ibid.*

83 *Ibid.*

84 *Ibid.*

85 *Ibid.*

86 *Ibid.*

87 *Ibid.*

88 *Ibid.*, 1:18.

89 *Ibid.*

90 Defining *al-illah*, al-Jurjānī says, "Literally it is an expression about a meaning which is predicated according to the predication and by which the condition of the predication changes. It is due to this reason sickness is called as *'illah* because of its predication the condition of a person changes from strength to weakness. Technically it is an expression about that which confirms the *ḥukm* [*'ibārah 'an mā yajib al-ḥukm bihi ma'ahu*], see *al-Ta'rifāt*, p. 159. This is at times used interchangeably with the terms *ḥikmah* and *sabab*. In the sense of the rationale behind an injunction, it is synonymous to the term *ḥikmah*. While in the sense of cause, it is used synonymously with the term *sabab*. However, the *uṣūlīs* tend to use *sabab* in reference to devotional matters (*'ibādah*) but use *'illah* in all other contexts. For instance, the *sabab* of fasting is the arrival of the month of *Ramādān*. However, the cause (*'illah*) for the prohibition of consumption of any intoxicating beverages is the quality of intoxication. *Kamālī*, *op.cit.*, pp. 34-7.

91 *Al-Mizān*, 1:18.

92 *Ibid.* The term *ribā* literally means "increase" (*al-ziyādah*) and technically it means *fadl khāl 'an 'iwad shurīṭa li aḥad al-'āqidayn* [an excess amount which is free from compensation which one of the two contracting parties made as a condition], see *al-Ta'rifāt*, p. 114. This corresponds to the word "interest" as defined by the English Lexicons. This interest is levied on loans. However, it should be noted that not all kinds of *ribā* are prohibited in *Islām*. What *Islām* prohibits of *ribā* is the usury which is defined by Webster's New World Dictionary as "an excessive or unlawfully high rate or amount of interest". There are two kinds of *ribā*: (1) *riba nasiya* or *riba* on credit and (2) *riba fadl* which relates to barter transactions. The main reason for the prohibition of *ribā* is that "it generates

income without 'labour' (work) on the part of the lender". see Noorzoy, M. Siddiq, "Islamic Laws on Riba (Interest) and their Economic Implications", in *IJMES*, 14 (1982), pp. 3-17. Thus, the definition of Abū Ḥanifah, *kullu qarḍ jarra nafa' fahuwa ribā* [all those loans which generate a benefit are *ribā* - see *al-Mizān*, 1:72] should be understood as "all those loans on which excessive and unlawful high rate of interest are levied are called as *ribā*". This is because, if the word *ribā* is used to include all transactions where there is *nafa'* (benefit) then hardly any business could function. [For valid criticisms of the term *ribā* and its applications see Katouzian, Homa's review on Muhammad Nejatullah Siddiqi's "Issues in Islamic Banking, Selected Papers: Islamic Economic Series 4, (Leicester, 1983)" in *IJMES*, 17 (1985), pp. 387-91.

⁹³ *Al-Mizān*, 1:18.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*; *Muslim*, 1:45; *Mājah*, p. 749.

⁹⁹ *Al-Mizān*, 1:18.

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

¹⁰² He is Abū 'Abd Allāh Ja'far al-Ṣādiq b Muḥammad al-Bāqir b 'Alī Zayn al-'Ābidīn b al-Ḥusayn b 'Alī b Abū Tālib, born in 80 h. and died in Madīnah in 148 h. see *Wafayāt*, 1:327-8; *Hilyat*, 3: 192.

¹⁰³ There is no one by the name of Muqātil b Ḥabbān. Perhaps he might be Abū Bisṭām Muqātil b Ḥayyān al-Nabṭī al-Balkhī al-Khazzāz, died before 150 h. see *Tahdhīb*, 9:277.

¹⁰⁴ *Al-Mizān*, 1:18; see also al-Ḥubābī, Aḥmad, *Manāḥij al-Fuqahā' fī istinbāt al-Aḥkām*, (Faz, 1992), pp. 13-4; Goldziher, Ignaz, *Die Zāhiriten ihr Lehrsystem Und ihre Geschichte*, (Leipzig, 1884), p. 15.

¹⁰⁵ *Al-Mizān*, 1:18.

¹⁰⁶ *Ibid.*; *al-Qur'ān*, 6:38.

¹⁰⁷ *Al-Mizān*, 1:18.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*; *al-Qur'ān*, 17:23. see also 46:17.

¹¹⁵ *Al-Mizān*, 1:18.

¹¹⁶ *Ibid.*; *al-Qur'ān*, 2:83, 4:36, 6:151, and 17:23.

¹¹⁷ *Al-Mizān*, 1:18.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ He is 'Alī b Aḥmad b Sa'īd b Ḥazm b Ghālīb b Ṣāliḥ b Abū Sufyān b Zayd, born in Cordova in 384 h. and died in 456 h. He was the direct disciple of Dāwūd al-Zāhiri [see note 55 below], the founder of the Zāhirite *madhhab*. Ibn Ḥazm is considered as the second teacher of his *madhhab*. see Ajiri, Adam Muhammad, "Ibn Ḥazm and why he is regarded as the Second Teacher of the Zāhirite Madhhab", in *Islamic Quarterly*, 38(1994)2:113-23; Ma'sūmī, M. S. H., "Ibn Ḥazm's Allegations Against the Leading Imāms", in *Islamic Studies*, 7 (June 1968), No. 2, pp. 113-28; *Ibar*, 3:239; *shadharāt*, 3:299; *Wafayāt*, 3:325-30. see text on p. 364 no. 51.

¹²¹ *Al-Mizān*, 1:18.

¹²² *Ibid.*, 1:18-9.

¹²³ *Ibid.*, 1:19.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

126 *Ibid.*

127 By this *al-Sha'rānī* means those *ahādīth* in which the legal rules are stated.

128 *Al-Mizān*, 1:66.

129 *Ibid.*, 1:67.

130 *Ibid.*

131 *Ibid.*

132 *Ibid.*

133 *Ibid.*

134 Defining the term *al-hujjah*, *al-Jurjānī* says, "It is that by which the validity of the claim is indicated. It is also said that *al-hujjah* and *al-dalīl* is one and the same [*mā dalla bi hi 'alā ṣiḥḥat al-da'wā wa qīla al-hujjah wa al-dalīl wāḥid*]. see *al-Ta'rīfāt*, p. 86. While *al-Zuhri* defines it as *al-wajh alladhī yakūnu bihi al-ẓafar 'inda al-khuṣūmah* [the course by which victory is gained during confrontation]. see *Hakīm*, *op.cit.*, p. 25. In the usage of the *uṣūlīs* it means *al-adillah al-shar'iyyah min al-ṭuruq wa al-imārāt allatī taqa' waṣatan li ithbāt muta'alliqātihā bi ḥasb al-ja'l al-shara'ī min dūni an yakūna baynahā wa bayna al-muta'allaqāt 'alaqah thubūtiyyah bi wajh min al-wujūh* [the *shara'ī* proof from the paths and constructions which lies in between for establishing that which is connected to it according to the make of the *shara'* without there being a affirmative attachment by any means]. [*Ibid.*, p. 28]. It is of two of types: (1) *al-hujjah al-dhātīyyah* is that which does not stand in need of a doer [*lā taḥtāj ilā ja'l jā'il*] and (2) *al-hujjah al-maj'ūlah* is that which stands in need of one who relates it from a *shara'* or intellect [*taḥtāj ilā man yusniduhā min shāri' aw aql*]. [*Ibid.*, pp. 29-34].

135 *Ibid.*

136 It is defined as *huwa mā yasbaqu ilayhi al-afhām* [it is that which appears before the mind], as opposed to *al-qiyās al-khafī* which is also called as *al-istiḥsān*. However, it is broader than *al-qiyās al-khafī*. For, every *qiyās al-khafī* is an *istiḥsān* and not the vice-versa. This is because, the term *al-istiḥsān* could also be applied on that which has been established by the *naṣṣ*, *ijmā'* and *al-ḍarūrah*. Nevertheless, usually the term *al-qiyās al-khafī* refers to *istiḥsān*. see *al-Ta'rīfāt*, p. 190. There are other kinds of *qiyās*. However, these are related to Logic. [*Ibid.*, pp. 190-1].

137 *Al-Mizān*, 1:67.

138 *Ibid.*

139 *Ibid.*

140 *Ibid.* It is a *ḥadīth* reported by a single person or by odd individuals from the Prophet. *Imām al-Shāfi'ī* refers it to as *khābar al-khāṣṣah*, which applies to every report narrated by one, two or more persons from the Prophet but which fails to fulfil the requirements of either the *mutawātir* [i.e.: a *ḥadīth* narrated by an indefinite number of people in such a way as to preclude the possibility of their agreement to perpetuate a lie] or the *mashhūr* [i.e.: a *ḥadīth* which is originally reported by one, or two or more Companions from the Prophet or from another Companion but has later become well-known and transmitted by an indefinite number of people]. see *Kamālī*, pp. 68-74. Even though scholars have equated *khābar al-āḥād* with *khābar al-wāḥid*, there are however, some differences between the two. For further reading on this issue read Robson, James, "Traditions from Individuals", in *JSS*, 12 (1964), pp. 327-40.

141 *Al-Mizān*, 1:67.

142 *Ibid.*, 1:11.

143 He is *Abū Sulaymān Dāwūd b 'Alī b Khalaf al-Isfahānī*, born in *Kūfa* in 202 *h.* and died in *Baghdād* in 270 *h.* see *Tārīkh*, 8:369; *al-Shirāzī*, p. 26; *Fihrist*, p. 216; *al-Waraqah*, p. 26; *Ibn al-Subkī*, 2:42; *Tadhkirah*, p. 572; *Wafayāt*, 2:255-7. see text on p. 364 no. 49.

144 *Al-Mizān*, 1:67.

145 *Ibid.* and p. 121; *al-Qur'ān*, 28:4.

146 *Al-Mizān*, 1:11; *al-Qur'ān*, 5:6.

147 *Al-Mizān*, 1:11.

148 *Ibid.*, 1:54-63.

149 *Khalīfah*, p. 1007.

- 150 *Al-Mizān*, 1:55.
- 151 *Ibid.*
- 152 *Ibid.*, 1:56.
- 153 *Ibid.*
- 154 *Ibid.*
- 155 *Ibid.*
- 156 *Ibid.*
- 157 *Ibid.*, 1:57.
- 158 *Ibid.*, 1:56.
- 159 He is Abū Sulaymān Ḥamd b Muḥammad b Ibrāhīm b al-Khaṭṭāb al-Bistī al-Khaṭṭābī, born at Bist in 317 h. and died at Nishāpūr in 388 h. see al-Sam'ānī, Abū Sa'id 'Abd al-Karīm b Muḥammad b Maṣṣūr, *al-Anṣāb*, ed. by 'Abd al-Raḥmān b Yaḥyā al-Mu'allamī al-Yemānī, (Hyderabad, 1963), 5:158-9.
- 160 *Al-Mizān*, 1:56.
- 161 He is Mujāhid b Jubayr Abū al-Ḥajjāj al-Makhzūmī, died in 103 h. see *al-Shirāzī*, p. 58. see text on p. 362 no. 17.
- 162 *Al-Mizān*, 1:56.
- 163 Unable to locate.
- 164 *Al-Mizān*, 1:56.
- 165 *Ibid.*
- 166 *Ibid.*, 1:57; *al-Qur'ān*, 4:105.
- 167 *Al-Mizān*, 1:57.
- 168 *Ibid.*
- 169 Unable to locate.
- 170 *Al-Mizān*, 1:57.
- 171 *Ibid.*
- 172 *Ibid.*
- 173 He is Abū Sufyān Wakī' b al-Jarrāh al-Rawāsī, died in 197 h. *Shadharāt*, 1:349-50.
- 174 *Al-Mizān*, 1:57.
- 175 *Ibid.*
- 176 *Ibid.*
- 177 *Ibid.*; *al-Qur'ān*, 38:86.
- 178 He is Abū Muḥammad Sulaymān b Mahrān al-A'mash, born at Kūfah in 60 h. and died there in 148 h. *Wafayāt*, 2:400-3; *Ibn Sa'd*, 6:342; *Tārīkh*, 9:3; *Tadhkirah*, p. 154; *Tahdhīb*, 4:222. see text on p. 362 no. 24.
- 179 *Al-Mizān*, 1:57.
- 180 He is Abū Bakr Sālim b 'Ayyāsh b Sālim b al-Ḥannāt b al-Asadī, died at Kūfah in 193 h. at the age of 68. see *Wafayāt*, 2:353-4; *I'tidāl*, 4:499.
- 181 *Al-Mizān*, 1:57.
- 182 *Ibid.*
- 183 He is 'Umar b 'Abd al-'Azīz b Marwān b al-Ḥakam. He is related to the second Caliph 'Umar b al-Khaṭṭāb through his mother Umm 'Āsim bt. 'Āsim b 'Umar b al-Khaṭṭāb, was an 'Umayyād ruler and died in 101 h. *Tahdhīb*, 7:475-8.
- 184 *Al-Mizān*, 1:58.
- 185 *Ibid.*, 1:57-8.
- 186 *Ibid.*, 1:58.
- 187 *Ibid.*
- 188 *Ibid.*
- 189 *Ibid.*
- 190 *Ibid.*
- 191 *Ibid.*; see also *al-Futūḥāt*, *op.cit.*, 7:165.
- 192 *Al-Mizān*, 1:58.

- 193 Ibid.
- 194 Ibid.
- 195 Ibid.
- 196 Ibid.
- 197 Ibid.
- 198 Ibid.
- 199 Ibid.
- 200 Ibid.
- 201 Ibid.
- 202 Ibid.
- 203 Ibid.
- 204 Ibid.
- 205 He is Abū 'Uthmān 'Amr b 'Ubayd, a Mu'tazilite propagandist, born in 80 *h.* and died in 144 *h.* He was a member of the circle of al-Ḥasan al-Baṣrī. see Watt, Montgomery, *The Formative Period of Islamic Thought*, (Edinburgh, 1973), p. 108.
- 206 Al-Mizān, 1:58.
- 207 Ibid.
- 208 Ibid.
- 209 Ibid., 1:59.
- 210 Ibid.
- 211 See GAL, 1:471; GALS, 1:651; It is stated that he is Muḥammad b Muḥammad b 'Abd al-Raḥīm Abū Ṭāhir Sirāj al-Dīn al-Sajāwandī. see Kaḥḥālāh, 11:233; Khalīfah, p. 353.
- 212 Al-Mizān, 1:59.
- 213 Ibid.
- 214 Ibid.
- 215 Ibid.
- 216 Ibid.
- 217 Ibid.
- 218 Ibid.
- 219 Refer to note 263 on p. 205.
- 220 i.e.: Madīnah. It is called as such because of the migration of the Prophet.
- 221 Al-Mizān, 1:59.
- 222 see GALS, 1:297.
- 223 Ibid., p. 299.
- 224 Al-Mizān, 1:59.
- 225 It is suggested that he is Abū 'Āṣim Muḥammad b Aḥmad al-'Abbādī, born in 375 *h.* and died in 458 *h.* see Umayrah, *op.cit.*, 1:212n1.
- 226 Al-Mizān, 1:59.
- 227 Ibid.
- 228 Ibid., 1:60.
- 229 Ibid.
- 230 Ibid.
- 231 Ibid.
- 232 Ibid.
- 233 Ibid.
- 234 Ibid.
- 235 Ibid.
- 236 Ibid.
- 237 Ibid.
- 238 Ibid.
- 239 She bleeds at other times than her menstrual cycle.

- 240 *Al-Mizān*, 1:60.
- 241 *Ibid.*
- 242 *Ibid.*
- 243 *Ibid.*
- 244 see *GALS*, 1:304.
- 245 *Al-Mizān*, 1:60.
- 246 *Ibid.*, 1:61.
- 247 A *khavar* according to the scholars of *ḥadīth* is synonymous with the term *ḥadīth*. While some of them maintain that the term *ḥadīth* is applied to that which came from the Prophet, whereas *khavar* is that which came from those other than him. Thus, every *ḥadīth* is a *khavar* but not vice-versa. see al-Asqalānī, Shihāb al-Dīn Abū al-Faḍl Aḥmad b 'Alī b Ḥajar, *Nuzhat al-Naẓr sharḥ nukhbat al-Fikar fī muṣṭalah ahl al-Athar*, (Madinah, 1404 h.), pp. 18-9.
- 248 *Al-Mizān*, 1:61.
- 249 *Ibid.*
- 250 see *Khalīfah*, p. 1161.
- 251 unable to locate.
- 252 *Al-Mizān*, 1:61.
- 253 *Ibid.*, 1:62.
- 254 *Ibid.*
- 255 *Ibid.*
- 256 *Ibid.*
- 257 *Ibid.*
- 258 This term which generally means, "testing" or "trial", whether by accidents of fortune or the actions of men, is often used, with reference to a religious test with a view to obtaining assent to some particular belief or system of beliefs. There were two great inquisitions, (1) that of Aḥmad b Ḥanbal which took place during the period extending from the year 218 h. to 234 h. and (2) that of Taqī al-Dīn Ibn Taymiyyah which took place around the year 705 h. Details of these trials are found in, Patton, Walter M., *Aḥmad Ibn Ḥanbal and the Miḥna: A Biography of the Imām Including an Account of the Moḥammedan Inquisition called the Miḥna 218-234 A.H.*, (Leiden, 1897); Jackson, Sherman, A., "Ibn Taymiyyah on Trial in Damascus," in *JSS* 39 (Spring 1994-1):41-85.
- 259 *Al-Mizān*, 1:62.
- 260 *Ibid.*
- 261 It is said that he died in 209 h. see *Wafayāt*, 1:65.
- 262 *Al-Mizān*, 1:62.
- 263 *Ibid.*, 1:26.
- 264 *Ibid.*, 1:16.
- 265 *Ibid.*, 1:36.
- 266 He is 'Abd Allāh b Yūsuf b Muḥammad b Hayyuwayh, known by the *laqab* Rukn al-Islām. He is the father of Imām al-Ḥaramayn [see note 137 on p. 201]. He died in 438 h. *Wafayāt*, 3:47-8.
- 267 *Al-Mizān*, 1:16.
- 268 see *Khalīfah*, p. 1621.
- 269 *Al-Mizān*, 1:15, 16 and 34.
- 270 *Ibid.*, 1:16.
- 271 *Ibid.*
- 272 *Ibid.*
- 273 He is 'Abd al-'Azīz Muḥammad b Ibrāhīm b al-Jamā'ah al-Kitānī al-Hamawī, born in Damascus in 694 h. Then he migrated to Egypt where he became the Chief Justice in 734 h. and died in Makkah in 767 h. *Shadharāt*, 6:208-9; *ʿĀlām*, 5:297-8; *Taghribirdī*, 9:298; *Durar*, *op.cit.*, 3:280. see text on p. 371 no. 137.
- 274 *Al-Mizān*, 1:16.
- 275 *Ibid.*
- 276 *Ibid.*

- 277 Ibid.
- 278 It is said that he died in Dīrīn in 697 *h.* see 'Umayrah, *op.cit.*, 1:103n6.
- 279 Details on his biography are scant. However, it is mentioned that he was popularly called as 'Umayrah. see Kawākib, *op.cit.*, 3:124 and Cf. 2:222; TS, p. 75.
- 280 It is said that he died in 917 *h.* 'Umayrah, *op.cit.*, 1:104n2.
- 281 see Garrett, p. 128.
- 282 Al-Mizān, 1:34.
- 283 Ibid.
- 284 Ibid., 1:15-6.
- 285 Ibid., 1:16.
- 286 Ibid.
- 287 Ibid.
- 288 He is Ashhab b 'Abd al-'Azīz al-Qaysī al-'Āmirī, born in 140 *h.* and died in 204 *h.* see Bek, Muhammad al-Khudrī, 8th. edi., (Beirut, n.d.), p. 207.
- 289 He is Abū Bakr Muḥammad b Ibrāhīm b al-Mundhir al-Nishāpūrī, born in 242 *h.* and died at Makkah in 319 *h.* It is said that he did not follow any particular *madhhab*. see Tadhkirah, 3:4; Wafayāt, 1:461; Ā'lām, 5:294-5.
- 290 Al-Mizān, 1:16.
- 291 Ibid.
- 292 Ibid., 1:34.
- 293 Ibid.
- 294 Ibid.
- 295 Ibid., 1:16.
- 296 Ibid., 1:34.
- 297 Ibid.
- 298 He is Abū al-Hudhayl Zufar b al-Hudhayl b Qays, born in 110 *h.* and died in 158 *h.* Wafayāt, 2:317-9; al-Shirāzī, p. 40; Shadharaāt, 1:243.
- 299 Al-Mizān, 1:34.
- 300 Ibid.
- 301 Ibid., 1:17.
- 302 Ibid.
- 303 Ibid.
- 304 Ibid.
- 305 Ibid., 1:33.
- 306 Ibid.
- 307 Ibid., 1:16.
- 308 Ibid.
- 309 Ibid.
- 310 Ibid.
- 311 Ibid.
- 312 Ibid. Explaining this further, al-Suyūṭī says that he did not choose anything outside the *madhhab* except in a few things and the rest of what he had chosen is from the *madhhab*, either it is another opinion of al-Shāfi'ī, being either his earlier or later opinion, or an opinion expressed in respect of the *madhhab* by some of his disciples. All these refer to the *madhhab* and not outside it. [see TS, p. 21].
- 313 Al-Mizān, 1:16.
- 314 Ibid.
- 315 Ibid., 1:57.
- 316 Ibid.
- 317 Ibid.
- 318 Ibid.

CHAPTER SIX

The Origin of al-Sha'rānī's Theory of *Takhfīf* and *Tashdīd*

It will have been noted earlier in this thesis how al-Sha'rānī has constantly resorted to the terms *takhfīf* and *tashdīd*, in his attempt to bring about a reconciliation between the different views of the *madhāhib*. These concepts of *takhfīf* and *tashdīd* are not new to *Islāmic* jurisprudence. Scholars who preceded al-Sha'rānī have used terms which give similar meanings to the two terms. It is important, however, to assess what contribution al-Sha'rānī made in this theory, which he claimed to be original, for al-Sha'rānī has repeatedly stated in *al-Mīzān* that none has preceded him in composing a balance similar to his. How far this statement is valid will become clear as we proceed. This chapter, however, does not claim to be exhaustive. Instead, being expository in nature, it attempts to study this theory in the works of those scholars who have employed both these terms.

Words connoting and denoting these two terms are many in the Arabic language. For example, there are the combinations of words like:

<i>yusur</i>	its opposite is	' <i>usur</i>
<i>ḍa'īf</i>	its opposite is	<i>qawī</i>
' <i>ajuza</i>	its opposite is	<i>qadurah</i>

<i>khaffa</i>	its opposite is	<i>thaqula</i>
<i>sahula</i>	its opposite is	<i>ṣa'uba</i>
<i>rukḥṣah</i>	its opposite is	<i>'azīmah</i>
<i>wasi'a</i>	its opposite is	<i>ḍāqqa</i>
<i>yassara</i>	its opposite is	<i>shaqqa</i>

In addition we will also find the following two terms *kallafa* and *ḥaraj* used for synonyms of the second column. All these combinations and their like convey the meanings of "concession" or "ease" and "determination" or "difficulty" respectively. However, a person could resort to concession, only when he or she is incapable of performing the required task. Furthermore, a person could ascend the ladder of determination, if he or she has the physical, mental and spiritual strength to perform the more difficult task. That is why it is clearly stated in the legal maxims that:

(1) *al-mashaqqatu tajlib al-taysīr*

Difficulty brings about facilitation.¹

(2) *al-amru idhā ḍāqqa ittasa'a*

If the matter is difficult its (application) becomes less decisive.²

Thus the criterion for facilitation and concession is that the performance of such a task becomes difficult. However, that which determines whether a task is difficult is the person's physical inability to perform it. This physical inability could arise out of bodily strength and environmental factors. For example, one who is physically capable of performing ablution, but was prevented by the absence of water in the desert from doing it, has to follow the concession of making the substituted ablution through sand (*tayammum*). If he is determined to

find water to perform the ablution, and if he fails in that process and thus missed the *ṣalāt*, he earns no reward for his endeavours. Though this is a concession, it does not mean that he should not aspire to do the more difficult, for the *Qur'ān* states:

If you are determined then have trust in God.³

This, however, should not be misconstrued to mean that when one is physically unable to perform an act, one should aspire to do the more difficult lest it might be injurious to health and thereby even prevent the performance of the minimum requirements. Instead, he should observe patience over his predicament. That, itself, is considered as more difficult, as has been said in the *Qur'ān*:

wa iṣbir 'alā mā aṣābaka inna dhālika min 'azm al-umūr
Be patient over what has befallen you, for that (itself) is the most determined course of the matter.⁴

Thus we are required to act according to our own physical ability and not to ascend to a higher and more difficult thing nor to descend to an easier one when we have the ability to perform the more difficult. In this regard Muḥyī al-Dīn Ibn al-'Arabī says:

The path is the obligatory rituals prescribed by the Real, about the strict application ('*azīmah*) of which there can be no relaxation (*rukḥṣah*), such relaxations in the application of the law (*rukḥaṣ*) are valid only at the prescribed places.⁵

These places have been indicated by al-Sha'rānī in his *al-Mizān*.

Definition of *takhfīf* and *tashdīd*

Both these terms are the *taf'īl* form (i.e.: in the transitive form) of the root verb *sh. d. d.* and *kh. f. f.* respectively. Thus *takhfīf*

literally means to "make easy, facilitate, relieve, reduce, or decrease in intensity,"⁶ while *tashdīd* literally means, "to cause stress, emphasise, or intensify"⁷ and other such words which are similar in meaning. It might here be appropriate to give the technical definition of these terms as they are used in respect to the *sharī'ah*. Thus, the term *takhfīf* could technically be defined as "all those *shara'ī* rules wherein there is facilitation and ease for the *mukallafs*" and therefore, "all those rules wherein there is determination and strict application of the rules" are called *tashdīd*. This brings us close to the meanings of the terms *rukḥṣah* and *'azīmah*, which have been used synonymously with *takhfīf* and *tashdīd*. However the usage of these terms, in the opinion of al-Sha'rānī, is wider than their usage according to other jurists.⁸ Therefore a study of what constitutes *tashdīd* and *takhfīf* (or rather *'azīmah* and *rukḥṣah*) will become clear when one examines those factors which determine whether the performance of a rule is considered as *'azīmah* or *rukḥṣah*. Some of these factors are:

(1) *mashaqqah*:

This word is derived from *sh. q. q.* as in *shaqqa 'alayya al-shay'* (the matter became difficult for me), which denotes something "tiresome" and "hard". The *Qur'ān* says:

Iam takūnū bālighihi illā bi shiqq al-anfus
You will not attain it except with great trouble to yourselves.⁹

According to linguists this is synonymous with *ṣa'b* and *thaqīl*, both implying difficulty or burden, as has been indicated in the saying of the Prophet:

Had I not wished to burden my *ummah* I would, certainly, have commanded them to brush their teeth (*al-siwāk*) before every *ṣalāt*.¹⁰

From the above definition of the term *al-mashaqqah*, it becomes clear that it is the burdensome act which is considered as difficult. The *shara'*, in its origin has not come down in respect of causing difficulty to the *mukallafs*, instead it has come down with *rukḥṣah* which befits the conditions of the *mukallafs*. One may question here why then all the legal obligations have been described as *takālīf* (Sing. *taklīf*), whose root *kulfah* is a synonym of *mashaqqah*, implying thereby difficulty? In other words, why is a legal obligation described as "that in which there is difficulty?" To this Ibn al-Shāṭ¹¹ says in his *Idrār al-Shurūq* '*alā anwā' al-Furūq*',¹²

Taklīf by itself is a *mashaqqah*. For it prevents man from taking things lightly (*istirsāl*) despite his inclination. It is a relative matter. It is by this consideration it is called *takhfīf*. This meaning is found in all its rules, even in the *ibāḥah*. Thereafter additional matters specified it on the basis of physical difficulties (*mashāq badaniyah*). Some of those *mashāq* are greater difficulties such as *jihād*, in which there is the exertion of the self. Therefore, on the basis of this the *mashāq* in relation to *taklīf* is classified into two categories: (1) a category in which the *taklīf* necessarily takes place usually or mostly or at times, (2) a category in which the *taklīf* does not necessarily take place. The first category will not affect the *'ibādah* either by an omission or by a *takhfīf*, because in that there is no breach of the *taklīf*. Whereas the second category affects the *ibāḥah* because it will breach the *taklīf*.¹³

However, not all the *mashaqqah* result in *takhfīf* or *taysīr*, as intended in the legal maxim.

al-mashaqqah tajlib al-taysīr
Difficulty begets facilitation.¹⁴

Thus the *mashaqqah* can be classified into: a *mashaqqah* which results in *takhfīf* and a *mashaqqah* which does not. The former is called *al-mashaqqat al-mu'tādah* (habitual difficulty), while the latter

is called *al-mashaqqah ghayr mu'tādah* (non-habitual difficulty).¹⁵ As far as the former is concerned, it is "the hardship which has become part of daily life and is no more called a *mashaqqah*, but is rather expressed by terms such as *kulfah*, *ta'b*, etc."¹⁶ While the second type is concerned with the type of hardship which is not habitual to such an extent that "the perpetuation of a certain act leads to discontinuation, wholly or partly, or results in a defect (*khalal*) in the doer of the act (*ṣāhibuhū*) in his person, property or in his states."¹⁷ Though it may not be impossible to bear it becomes an impediment to performing other acts.¹⁸ For instance, to observe fasting during sickness or a journey is not easy according to *'ādah*, and thus it incurs *mashaqqah*. It is here that the *sharī'ah* makes certain allowances which are called *rukḥṣah* by the *fuqahā'*.¹⁹

There is also a third category of *mashaqqah*. It is a mean between the two above categories. This kind of *mashaqqah* is usually either an inevitable result of a certain act, in that case called *ḥaraj*, or it comes about neither from the *mukallaf*'s own choice nor as a result of his action.²⁰

(2) *ḥaraj*:

Originally this term refers to "the narrow place which is dense with trees and where no herd could reach."²¹ Thereafter, its usage widened to accommodate the meanings of difficulty, inconvenience, doubt,²² sin,²³ prohibition,²⁴ etc. Ibn 'Abbās defines it as "that from which there is no exit."²⁵ But no technical definition of this term has been given. However, one could infer the technical sense of this term from the opinions expressed by scholars on *ḥaraj* in some of their legal

texts. These explanations give only a part of the definition. Nevertheless, the collective meanings from these opinions indicate the intent of the term *al-ḥaraj*. Further, one could also define this term through the definition of its antonyms like *yusur* and *wasi'*. Let us therefore, define them as follows:

The *Qur'ān* and *aḥādīth* indicate that the *sharī'ah* is built on *yusur* and *takhfīf*, as such it does not involve *shiddah* and *'usur*. The word *yusur* literally means "ease, facility, easiness,"²⁶ etc. It has been defined technically as "an act which does not exert the soul nor burden the body."²⁷ Its opposite is *'usr* which has been defined as "that which exerts the soul and causes damage to the body."²⁸ Ibn Ḥazm refers to *'usr* and *ḥaraj* in his *Uṣūl al-Aḥkām*²⁹ as "that which one cannot perform, whereas that which one could perform is *yusr*."³⁰ Regarding *wasi'* al-Zamakhsharī³¹ says: "*Wasi'* is that which facilitates (*yasa'*) the man and which neither restrains nor impedes him. For God will not compel a soul except with what its ability could bear and He makes it easy for it regardless of the extent of its ability and endeavour. Perhaps it is within the ability of the man to perform *ṣalāt* more than the five (obligatory *ṣalāt*) and to fast more than a month, and to perform more than a *ḥajj*."³² From these one could define the term *ḥaraj* technically as "all that which causes excessive inconvenience in respect of one's body, or soul or wealth."³³ In the definition of al-Shāṭibī, he refers to "an act which causes an impediment in fulfilling more convenient acts (*ḥuḏūḏ*),"³⁴ or when inconvenience in performing a certain act amounts to abhorrence of it or creates a dislike for one's obligation, that inconvenience is called *ḥaraj*.³⁵

(3) *ḥājah*:

It is the situation which follows an event in which there is additional difficulty without it reaching the degree of desperation or that which is closer to that.³⁶ The 'ulamā' have classified *ḥājah* into two categories:³⁷

(1) *ḥājah 'āmmah* (general *ḥājah*)

(2) *ḥājah khāṣṣah* (particular *ḥājah*)

In the first category the entire *ummah* is included irrespective of their divisions and levels. *Ḥājah* is connected with their common and general well-being through business, industry, agriculture, politics and so on. Even if they are among the agriculturalists, or industrialists or businessmen, they are still considered as those who are needy (*muḥtāj*) for these *takhfīf*.³⁸ There are many examples of this.

As far as the second category is concerned, *ḥājah* is applied to a particular individual or a specified group of people, like doctors, industrialists or agriculturalists.³⁹ For instance, it is prohibited for men to wear gold or silk. It is narrated by 'Alī b Abū Ṭālib that he saw the Messenger of God taking a silk (cloth) and putting it to his right, and a (piece of) gold and putting it to his left and said: "These two (things) are *ḥarām* for the males of my *ummah*."⁴⁰ However, it is permitted to wear silk if some bodily defect like itchiness makes it necessary. The Prophet gave a *rukḥṣah* to al-Zubayr⁴¹ and 'Abd al-Raḥmān b 'Awf⁴² to wear silk owing to the itchiness which they suffered.⁴³ Likewise the attire of the astronauts, for instance, contains a significant percentage of gold. As such, if it is prohibited for them to wear that attire just because it contains gold, then it would be difficult for them to undertake

any space research. Therefore, wearing such an attire is necessary for them.

(4) ḍarūrah:

In defining *al-ḍarūrah*, al-Jurjānī says in his *al-Ta'rifāt*, "the word *al-ḍarūrah* is derived from *al-ḍarar* (harm), it is something which occurs without there being any protection against it."⁴⁴ While Abū Bakr al-Jaṣṣāṣ⁴⁵ says: "*Al-ḍarūrah* is the fear of *al-ḍarar* or bringing destruction to oneself or to some parts of the body by abstaining from eating."⁴⁶ Likewise is the definition given by al-Bazdawī.⁴⁷ Whereas al-Zarkashī⁴⁸ defines it as:

It is the reaching of the limit, (such that) if (a man) does not eat the prohibited (thing) he would perish, or near (to that), just as a man who is compelled to eat and wear such that if he remains hungry or naked he would certainly have died or his limb would be destroyed.⁴⁹

While the Mālikites define it as "the fear for the self against death (either) by (way of) certitude or supposition."⁵⁰ In the opinion of Shāfi'ites, *al-ḍarūrah* is defined as, "A situation when one fears that without eating, death would result or a prolonged and more severe sickness or removal from one's group (*rifqah*), or inability to walk or ride; or when one did not find any *ḥalāl* food but only unlawful food, then it is obligatory to eat it."⁵¹ A study of all these definitions shows that, being restricted in application, these definitions do not convey the extent of the application of the term *al-ḍarūrah*. For *al-ḍarūrah* is not applicable in extreme cases of hunger only. It is exercised in a wide area. An example is the making use of others' wealth in extreme situations. Thus *al-ḍarūrah* could be defined as:

A man falling into an unexpectedly hazardous situation or a severe difficulty, to such an extent that he fears the occurrence of loss or damage to himself, or an organ, or honour or intellect or wealth. At that time it is permitted for him to act according to the *ḥarām*, or abstain from performing the *wājib* or delay it.⁵²

Thus, all such instances of *ḍarūrah* necessitate *rukḥṣah* and *takhfīf*. There are many situations of *ḍarūrah*, but the most important of them are:⁵³

- (1) hunger and thirst
- (2) medication (*al-dawā'*)
- (3) compulsion (*al-ikrāh*)
- (4) forgetfulness (*al-nisyān*)
- (5) ignorance (*al-jahl*)
- (6) inconvenience (*al-ḥaraj*)
- (7) difficulty (*al-'usr*)
- (8) journey (*al-safar*)
- (9) sickness (*al-marad*)
- (10) natural defects (*al-nuqṣ al-ṭabī'ī*)
- (11) general calamity (*'umūm al-balwā*).

The above are the factors which influence and result in *rukḥṣah* and *takhfīf* of a rule of law. However, before proceeding to *tashdīd*, let us analyse what constitutes *rukḥṣah* and *takhfīf*.

(5) rukḥṣah:

Literally *rukḥṣah* is "intending ease."⁵⁴ It is the antonym of '*azīmah* (which is discussed below). While *takhfīf* is to "make easy."⁵⁵ According to al-Shāṭibī, the *rukḥṣah* in the speech of the *shara'* is applied to:⁵⁶

- (1) that which is an exception from the original universal (proposition) which necessitates prohibition (*al-mana'*) absolutely without consideration for any difficult inconvenience.
- (2) the *takālīf* and difficult tasks which have been removed from this *ummah*.
- (3) that of the legislated rules which is broadened for the servants.

Technically it is defined as, "the established proof against the opposing proof for an excuse."⁵⁷ This excuse might be in the form of *mashaqqah*, *ḥājah* or *ḍarūrah*. However, al-Shāṭibī, while defining *al-rukḥṣah* made a condition that only those excuses in which there is *mashaqqah* are to be considered as *al-rukḥṣah*.⁵⁸ For, according to him, excuses can be applied only to *ḥājah* when there is no *mashaqqah* in matters like the rule pertaining to *al-qirāḍ* (sleeping partner), *al-musāqah*, *al-qarḍ*, and *al-salam*. All these and their like can be considered for *rukḥṣah*, even though there is no *mashaqqah* in them.⁵⁹ Thus scholars differed in the doctrine of *al-rukḥṣah* into two main divisions:

- (1) the Ḥanafite view
- (2) the Shāfi'ite view.

Those who held the Ḥanafite view classified *al-rukḥṣah* as follows:⁶⁰

- (1) *al-rukḥṣah al-majāziyyah* - This metaphorical *rukḥṣah* is also called as *rukḥṣat al-isqāṭ*. It is of two types: (a) that which is closer to the *ḥaqīqah*, eg. like the contract of advance sale (*'aqd al-salam*), (b) that which is more complete in respect of the *majāziyyah*. It is that which has removed from us the difficulty (*al-iṣr*) and shackles (*al-aghlāl*), like offering a quarter of the wealth in *zakāt*. This is a kind of *rukḥṣah*, because there is no *'azimah* against it. In fact it takes the place of *'azimah*.
- (2) *al-rukḥṣah al-ḥaqīqiyyah* - This real *rukḥṣah* is also called *rukḥṣat al-tarfīh*. It is also of two types: (a) that which the *sharī'ah* permitted together with the existence of the proof of prohibition; for example, uttering a statement of unbelief under compulsion; (b) that which is permitted to be performed together with the existence of the proof of prohibition but without its rule. For example, breaking the fast by a traveller during *Ramaḍān*.

While those who held the Shāfi'ite view categorized *al-rukḥṣah* into:⁶¹

- (1) *rukḥṣah wājibah* - Obligatory *rukḥṣah*, like eating the carcass when forced. For it will be *wājib* for the protection of one's life.
- (2) *rukḥṣah mandūbah* - Recommended *rukḥṣah*, like shortening the *ṣalāt* for the traveller.

- (3) *rukḥṣah mubāḥah* - *rukḥṣah* that is permitted, like *al-ijārah* (rent), *al-musāqah* (share-cropping), etc.
- (4) *rukḥṣah 'alā khilāf al-awlā* - *rukḥṣah* that falls short of the best, like the breaking the fast by a traveller who does not feel any hardship in fasting. This is a *rukḥṣah* which falls short of the best, as has been stated in the *Qu'ān*:

Fasting is better for you.⁶²

Here fasting is commended but not commanded. This discourages abandoning it. What has been discouraged without a clear prohibition is termed as *khilāf al-awlā*.

According to some other scholars, like al-Suyūṭī and al-Ba'ī⁶³ there is yet another category of *rukḥṣah* called *rukḥṣah al-karāhah* (detested *rukḥṣah*). For instance, al-Suyūṭī says that it is a *rukḥṣah* for a traveller to perform the *ṣalāt al-qasr* for a period of less than three (consecutive) days.⁶⁴ If anyone were to continue to perform his *ṣalāt al-qasr* after the expiration of the above three day limit, then he is said to have acted according to the *rukḥṣah al-karāhah*. The same opinion is expressed by al-Ba'ī in his *Qawā'id*.⁶⁵ Some scholars maintain that *rukḥṣah* comes in all the five rules of law.⁶⁶ While al-Shāṭibī opines that the rule of *rukḥṣah* is the absolute *ibāḥah*, since it is the *rukḥṣah*.⁶⁷

Thus, on the basis of what has been established above, the jurists have classified *al-takhfīf* into the following categories:⁶⁸

- (1) *takhfīf isqāṭ* - *takhfīf* of omission, like omitting the *jumu'ah*, *ḥajj*, *'umrah*, *jihād* by those who are incapable of performing them.

- (2) *takhfīf tanqīṣ* - *takhfīf* of reduction, like shortening the four *raka'āt ṣalāt* into two *raka'āt*.
- (3) *takhfīf ibdāl* - *takhfīf* of substitution, like replacing *wuḍū'* with *tayammum*.
- (4) *takhfīf taqdīm* - *takhfīf* of precedence, like combining *ṣalāt al-ẓuhr* and *ṣalāt al-‘aṣr*, by performing the latter at the time of the former by shortening the number of their *raka'āt*.
- (5) *takhfīf ta'khīr* - *takhfīf* of postponement, like delaying the performance of *ṣalāt al-ẓuhr* to the time of *ṣalāt al-‘aṣr* by shortening the number of their *raka'āt*.
- (6) *takhfīf tarkhīṣ* - *takhfīf* of permission, like eating what is ritually impure (*najāsah*) for medicine.
- (7) *takhfīf taghyīr* - *takhfīf* of change, like changing the manner of *ṣalāt* in the *ṣalāt al-khawf*.

The factor which contributes towards *tashdīd* is *al-iḥtiyāt* (carefulness or prudence). This carefulness comes as a result of knowledge. That is why God says in the *Qur'ān*:

Verily the learned among the servants fear God most.⁶⁹

This verse emphasises that the more a *mukallaf* is learned in his *dīn*, the more he will fear God. It is due to this, that scholars like Aḥmad b Ḥanbal and even Ibn Taymiyyah took to the *'azīmah* by withstanding the hardships of the *miḥnah*.⁷⁰ In the case of Aḥmad b Ḥanbal, he was persecuted for his stand on the uncreatedness of the

Qur'ān,⁷¹ while Ibn Taymiyyah was imprisoned for his disputes with the Ash'arites.⁷² Both these scholars and their like due to their abundance of knowledge and conviction felt the need to undertake the '*azīmah*. Otherwise, they would have done injustice to their knowledge.

(6) *iḥtiyāt*:

Al-iḥtiyāt, literally means, "acting according to the more judicious (thing),"⁷³ or as "seeking the most fortunate (i.e.: in terms of the next world) and acting according to the most authentic aspects."⁷⁴ Technically it is defined in many ways. Some of the definitions are:

(1) performing that more likely to encompass the principles of law and which is farther from defects of interpretation;⁷⁵

(2) protection and caution in (every) respect so that one will not fall into distasteful acts (*al-makrūh*).⁷⁶

While al-Jurjānī defines it as, "protecting the self from falling into sins."⁷⁷ The first definition does not give the exact meaning of the term *al-iḥtiyāt* if applied to the substantive laws. On the other hand, the second definition does not say anything about the *ḥarām*. A combination of the above definitions will give us the technical meaning of the above term. Thus, it can be defined as, "the caution of the *mukallaf* from falling into that in which there is doubt in respect of *ḥarām* or *makrūh*."⁷⁸ This caution might be in the form of performing an act or abstaining from it or undecidedness. Thus, it can be classified into the following categories:

- (1) *al-iḥtiyāt bi al-fi'l* (Prudence in Action)
- (2) *al-iḥtiyāt bi al-tark* (Prudence in Abstinence)
- (3) *al-iḥtiyāt bi al-tawaqquf* (Prudence in Indecision).

At times *iḥtiyāt* becomes a *wājib* if it was a caution against *ḥarām* and it will be a *mandūb* if it was a caution against *makrūh*. Thus, falling into *ḥarām* might be either through the perpetration of the thing prohibited or abstaining from performing the *wājib*, just as the falling into *makrūh* might be through the perpetration of the *makrūh* or abstaining from performing the *mandūb*.⁷⁹

(7) 'azīmah:

Owing to this *iḥtiyāt* a *mukallaf* acts according to the '*azīmah* of the *shara'*. Defining the term *al-'azīmah*, al-Jurjānī says:

Literally it is an expression about an affirmative intention (*al-irādah al-mu'akkadah*). God says, *wa lam najid lahu 'azmā* - We did not find in him the determination,⁸⁰ that is he did not have an affirmative aim (*qaṣd mu'akkad*) in acting according to what he has been commanded. In the *sharī'ah* (it refers to) that which is the original legislation without any connection with contradiction.⁸¹

In other words, it refers to a *ḥukm* which is in its primary and unabated rigour without reference to any extenuating circumstances which may soften its original force or even entirely suspend it.⁸² That means it is a law as it had been intended in the first place. Most of the jurists, including al-Ghazzālī and al-Āmidī⁸³ opined that '*azīmah* is concerned specifically with the *wājibāt*, for they define it as, "an expression about that which enjoins the servants to the imposition of God, the Exalted."⁸⁴ It is also said that, '*azīmah* is concerned with the *ibāḥah* to such an extent that the proof of prohibition does not oppose it.⁸⁵ Therefore, it will neither follow the literal application nor the

technical definitions of the *fuqahā*'.⁸⁶ For literally as mentioned above, 'azimah indicates an emphasis and determination, as in the saying, 'azamtu 'alayka bi kadhā wa kadhā - I have decided for you such and such. Owing to this the *fuqahā*' compared it with that in which there is *rukḥṣah*, whereas in *ibāḥah* as such this meaning is not there.⁸⁷ However, this view is not shared by al-Sarakhshī.⁸⁸ For he defines it as, "an expression about a sound rule which does not cause contradiction,"⁸⁹ for instance, like the five obligatory *ṣalāt* and other binding obligations (*takālīf*). It is, according to al-Zarkashī,⁹⁰ applied to all the five rules of the law.⁹¹ Thus he maintains that 'azimah is found in all the rules of law. The correlation between 'azimah (i.e.: the *ḥukm* in its unabated rigour) and *rukḥṣah*, as suggested by al-Zarkashī can be seen from the following diagram:⁹²

		'azimah				
rukḥṣah		wājib	mustaḥabb	mubāḥ	makrūh	ḥarām
	wājib		*	*	*	*
	mustaḥabb			*	*	*
	mubāḥ					
	makrūh	*	*	*		
	ḥarām	*	*	*	*	

Thus there are fourteen types of *rukḥṣah* which correspond to the five 'azimah. They are as follows:⁹³

'azimah wājibah	results in	rukḥṣah makrūhah rukḥṣah ḥarām
'azimah mustaḥabbah	results in	rukḥṣah wājibah rukḥṣah makrūhah rukḥṣah ḥarām

' <i>azīmah mubāḥah</i>	results in	<i>rukḥṣah wājibah</i> <i>rukḥṣah</i> <i>mustaḥabbah</i> <i>rukḥṣah makrūhah</i> <i>rukḥṣah ḥarām</i>
' <i>azīmah makrūhah</i>	results in	<i>rukḥṣah wājibah</i> <i>rukḥṣah</i> <i>mustaḥabbah</i> <i>rukḥṣah ḥarām</i>
' <i>azīmah ḥarām</i>	results in	<i>rukḥṣah wājibah</i> <i>rukḥṣah</i> <i>mustaḥabbah</i>

Discussing the term *al-ʿazīmah*, al-Sarakhshī says in his *Uṣūl*, that to act according to the *ʿazīmah* is *afḍal* (more meritorious).⁹⁴ He says that in acting according to the *ʿazīmah* if the *mukallaf* gets killed he will be rewarded, because he simply obeyed his Lord in whatever he did.⁹⁵ As an illustration, al-Sarakhshī states that in the utterance of disbelief under compulsion, if the *mukallaf* gets killed owing to his refusal to utter that word, then he has indeed waged *jihād* and that is *afḍal*.⁹⁶ However, this should not be the case in acting according to any of the *wājibāt*. For instance, if a *mukallaf* fears that if he observes *ṣawm* he will die, then he must break it, because if he continues his *ṣawm* and dies as a result, then he will be considered to have been the cause of his own death, whereas it is required of a man to shun killing himself.⁹⁷ This is contrary to that situation in which he had been ordered by a tyrant to break his *ṣawm*, but refuses to break it, so that as a result he was killed, because killing here is connected to the act of the tyrant, while his refusal is considered as an act of a *mujāhid*.⁹⁸ However, if one is forced to eat carrion or drink alcohol because of fear of death from hunger or

thirst or compulsion, he should not hesitate from consuming it, for if he had abstained from it till he died he would be a sinner.⁹⁹

Even though most jurists consider the situation when the woman in childbirth (*nufasā'*) and menstruating (*ḥā'id*) does not have to perform *ṣalāt* as *rukḥṣah*, al-Zarkashī says that it is an '*azīmah* on these women to abstain from performing the *ṣalāt*.¹⁰⁰ Explaining this point, al-Nawawī says that it is an '*azīmah* in respect of her because she was obliged (*mukallafah*) to abstain from it.¹⁰¹ The proof necessitates that whoever is obliged to abstain from a thing is not obliged to perform it in the state of his being obliged to abstain from it.¹⁰²

(8) *khāṣṣ* and '*āmm*:

Before concluding this section, it is pertinent to explain that even *khāṣṣ* (Particular) and '*āmm* (Universal) could be considered as determinants of *takhfīf* and *tashdīd*. However, unlike the combinations of words listed earlier, this pair can be used interchangeably to denote *takhfīf* and *tashdīd*. For instance, God says in the *Qur'ān*:

Whoever among you witnesses the month (of *Ramaḍān*) let him fast.
(1st part of the verse),
however, whoever was sick or on a journey let him then count (the missed fasts) at another day (2nd part).¹⁰³

The 1st part is '*āmm*, since it does not specify anyone, while the 2nd part is *khāṣṣ* since it specifies or particularises those who did not fast owing to their sickness or journey. In the 1st part there is *tashdīd*, since it is applied to all *mukallaḥs* either of sound or weak health. As such fasting is made generally obligatory. However, in the 2nd part of the verse there is *takhfīf* on those *mukallaḥs* who are unable to fast. The *takhfīf* is that they can fast at a later date. However, this order will

change if it is applied to the case of those selected *ṣaḥābah* who were commanded to perform the 'azīmah while the others were commanded to follow the *rukḥṣah*. Thus, even though the former are *khāṣṣ*, they were commanded to do the 'azīmah, while the latter being the 'āmm were commanded to do the *rukḥṣah*. So in the case of the selected *ṣaḥābah* to fast during a journey is prescribed.

Usage of *takhfīf* and *tashdīd* in the *Qur'ān*

As we have seen earlier, there are many terms denoting the meanings of the terms *takhfīf* and *tashdīd* in the Arabic language. In the *Qur'ān*, too, these two terms are expressed through various words. Thus, in this section, a study will be made of how these two terms are employed in the *Qur'ān* under the following classifications:

- (1) words denoting *takhfīf* and *tashdīd per se*.
- (2) usage of words alluding to the meanings of these terms.
- (3) deciphering the sense of these terms from the *qarīnah* (context).

Words denoting *takhfīf* and *tashdīd per se*.

A careful study of the *Qur'ān* will reveal to us that there is only one place wherein the form *takhfīf* has been used, and that is in *sūrah al-Baqarah* verse 178 which reads, thus:

And that is a concession from your Lord and a mercy.

However, in its verbal form the *Qur'ān* says in two other places:

- (1) Now God has made a concession for you because He knew that there are weak ones among you.¹⁰⁴

The above two verses epitomize the *takhfif* from God, that is, *takhfif* is only for the weak ones who are incapable of performing the required task. And this is a mercy from God to those who are weak.

(2) He wishes to make a concession for you, for mankind is created weak.¹⁰⁵

This verse stresses that man by creation is weak. Therefore to act according to the *takhfif*, in essence, is acting according to the creative spirit of God. As such, *takhfif* is essentially a provision which God has instituted in His *sharī'ah* as a mercy to the weak ones among the *mukallafs*, in order to facilitate the performance of His injunctions and prohibitions in any circumstances. Thus God stresses the goals of the *sharī'ah* rather than the means by which such goals are attained.¹⁰⁶ It is said in the *Qur'ān*:

Does he think that none is able to overcome it?¹⁰⁷

While in another place it says, "We have indeed created people in respect of (their ability to) endure hardships."¹⁰⁸ These verses confirm that even though man was created weak, God has given him the ability to withstand hardship and severity. As such it is never impossible for man to overcome it. Therefore, despite his weakness, man could aspire to do a thing for which God has given him the strength.

As for *tashdīd*, it is nowhere mentioned in the *Qur'ān* as such. However, its derived forms are used as verbs, adverbs, adjectives and nouns. The *Qur'ān* says in reference to bygone people that they were annihilated despite their possessing the strength over others. Verses 30:9; 35:44; 40:21 and 82; 41:15; 43:8; 50:36 and their like repeat the same theme. Thus it could be seen from the above *Qur'ānic* verses that

the word *shiddah* or *tashdīd* is associated with or attributed to *quwwah*. This means that when there is no *quwwah* there is no *tashdīd*. However, the term *quwwah* is wider in application; that is, a *mukallaf* could be strong either physically, or materially, or spiritually. Therefore, when a man is strong in respect of any of these aspects, he is expected to act according to the 'azā'im of the *sharī'ah*. For instance, a *mukallaf* who is financially strong is recommended to give more in charity than one who is poor. It is the reason why when a man is unable to feed sixty poor people, as expiation for wilfully breaking a fast, he is required to keep a fast for three days.¹⁰⁹ These recommendations and prescriptions are left to the discretion of the *mujtahids* who as heirs to the *shārī'* recommend or prescribe laws to the *mukallafs* according to their physical, moral, material and spiritual stations in respect of *īmān*, *islām* and *iḥsān*, just as a physician prescribes medicines according to the need of the patients.

Words alluding to the meanings of these terms

As mentioned earlier, there are many words which denote the meanings of both *takhfīf* and *tashdīd*. In the *Qur'ān*, too, there are many verses in which such words have been used. To quote a few by way of example:

- (1) *ḍayyiq* : *wa lā tuḍārrūhunna li yuḍayyiqū 'alayhinna.*
Do not annoy them by imposing restriction on them.¹¹⁰
- (2) *'usr* : *wa in kānā dhū 'usratin fa nazīratun ilā maysarah.*
If he is among those who are in difficulty, then (let him) look towards leniency.¹¹¹

- (3) qawī : *Allāh alladhī khalaqakum min ḍa'fin thumma ja'ala min ba'di ḍa'fin quwwah thumma ja'ala min ba'di quwwatin ḍa'fan wa shaibatan yakhlūqu mā yashā' wa huwa al-'alīm al-qadīr.*

It is God who raised (*khalaqa*) you all from (the state of) weakness, then gave (you) strength after weakness, then after strength He gave you weakness and oldness. He creates as He wishes. He is most knowledgeable and most powerful.¹¹²

- (4) qudrah : *ḍarab Allāh mathalan 'abdan mamlūkan lā yaqdiru 'alā shay'.*

God gives an example of a slave, under the control of another person, who is unable to do anything.¹¹³

- (5) 'azīmah : *fa idhā 'azama al-amr fa law ṣadaqu Allāh lakāna khayran lahum.*

Then when the matter becomes decisive, it would have been better if they were true to God.¹¹⁴

- (6) shaqqah : *wa mā urīdu an ashuqqa 'alayk.*

And I do not intend to impose difficulty on you.¹¹⁵

- (7) kulfah : *lā nukallifu nafsān illā wus'ahā.*

We do not burden a soul except according to what it could bear.¹¹⁶

In all these verses there is an indication of determination and an encouragement to do the best. In the verses quoted above, verse number (2) clearly states that one can descend to the stage of *rukḥṣah* or concession only when one feels that one is unable to continue in difficulty. However, in verse (3), the alternative usage of the words *quwwah* and *ḍa'f* indicates that *takhfīf* and *tashdīd* are not static. That is, a rule might be made *tashdīd* at a particular time while at another time the same rule may be given as *takhfīf*. On this basis the legal maxim *al-amr idhā ḍāqqa ittasa' wa idhā ittasa' ḍāqqa* [if the matter is rigid, it is broadened, and when it is broad it is restricted]¹¹⁷ should be understood. Explaining the above maxim al-Shāṭibī says in his *al-Muwāfaqāt*,

The reason for *rukhsah* is the *mashaqqah*. The *mashāqq* differs (or varies) according to the strength and weakness (of the *mukallaf*) and according to the conditions and the strength of the 'azā'im and their weaknesses, and according to the times and actions. The *shara'* has omitted all that which one finds difficult... as a recommendation to *ijtihād*. In the example of sickness, many people gain strength during their sickness while others do not. The *rukhsah* is intended for the latter of the two. There is no dispute about this. Thus the reasons for *rukhsah* are not contained under the original law nor is there any principle (*dābit*) which can be adopted (*ma'khūdh*), instead it is attributable to every addressee in respect of himself. Thus, whoever is among those who are habitually compelled to observe patience over hunger, will not be subject to the same conditions just as the Arabs were not... Thus it is not permitted for him to (eat) the carrion on the basis of the exemption for one who was used to those conditions. This is one aspect. While the other aspect is: that the *mukallaf* might interpret it as impetus against action to such an extent that he might (feel) that what was heavy on others is light on him. This state has been narrated through the *akhbār* of the *ahl al-'ibādāt* who endured. It is these people who are reported to have been capable of fasting continuously for twenty-four hours (*wisāl*). For the *shāri'* commanded leniency as a mercy towards the servants. Even then there were people who performed it after the Prophet. That is because the reason for the prohibition is the *ḥaraj*, whereas the *mashaqqah* is non-existent in their respect. For they knew that their *wisāl* of the *ṣiyām* did not restrain them from (fulfilling) their needs. Thus there is no *ḥaraj* in respect of them. Whereas there is *ḥaraj* in respect of one who is affected by *ḥaraj* to such an extent that it restrains him from (fulfilling even) his *ḍarūrāt* and *ḥājāt*.¹¹⁸

The words denoting the meaning of *takhfīf* are also mentioned in the *Qur'ān*. For instance:

- (1) *yusur* : *fa iqra'ū mā tayassara min al-qur'ān 'alima an sayakūnu min kum mardā wa ākharūna yaḍribūna fī al-arḍ yabtaghūna min faḍl Allāh wa ākharūna yuqātilūna fī sabīl Allāh fa iqra'ū mā tayassara min al-qur'ān....*

Therefore, recite of the *Qur'ān* that which is easy for you. He knew that there may be some who are ill among you while others travel through the land, in search of God's bounty, and some others fighting in the path of God. Therefore, recite of it that which is easy for you.¹¹⁹

- (2) *'ajuza* : *qāla yā waylatā a'jaztu an akūna mithla hādhā al- ghurāb.*
He said, "Woe is me, I am even unable to be like this crow."¹²⁰

- (3) *wasi'a* : *lā takallafu nafsun illā wus'ahā.*
No soul will be burdened except according to what it can bear.¹²¹

At times the use of the words like *lā* (or *laysa*) *junāha*, *lā ithma* 'alayh and the like indicates *takhfīf*. For instance the *Qur'ān* says:

- (1) *wa idhkurū Allāh fī ayyām ma'dūdāt fa man ta'ajjala fī yawmayn fa lā ithma 'alayh wa man ta'akhhara fa lā ithma 'alayh li man ittaqā.*

And remember God during the appointed days. However, if anyone hastens to leave in two days, then there is no blame on him, and (likewise) if anyone stays on then (also) there is no blame on him.¹²²

- (2) *wa al-qawā'id min al-nisā' allātī lā yarjūna nikāḥan fa laysa 'alayhinna junāḥ an yaḍa'na thiyābahunna ghayra mutabarrijātīn bi zīnah.*

The elderly women who cannot regain the prospect of marriage, there is no blame on them if they lay aside their outer garments, provided they do not make wanton display of their beauty.¹²³

Whereas the particles of exception (*istithnā'*) like *illā*, *ḥattā* and their like can be used to indicate *takhfīf* or *tashdīd* depending on the context. It is like the *Qur'ānic āyah*,

fa in ṭallaqahā falā ṭaḥillu lahū min ba'd (1st part)

If he has divorced her, then she is not lawful for him after that

ḥattā tankiḥa zawjan ghayrah (2nd part).

till she marries another person.¹²⁴

In this *āyah* there is *takhfīf* in the 1st part, while in the 2nd part there is *tashdīd*, since the divorcer has to wait till his divorced wife marries another husband and he too has to divorce her in return before the former could take her again as his wife. However, the word *istiṭā'ah* can be applied to both *takhfīf* and *tashdīd* equally. That is why scholars have differed in respect of the saying of God:

fa ittaqū Allāh mā istaṭa'tum

So fear God according to your ability.¹²⁵

To the *mufasssirs* this verse indicates *takhfīf*.¹²⁶ However, to the *ṣūfīs* this verse indicates *tashdīd*. For instance, in the opinion of al-Sarrāj al-

Ṭūsī,¹²⁷ "There is *tashdīd* in this *āyah*, because, if you performed one thousand *raka'āt* of *ṣalāt* and you have the ability to perform another *raka'ah*, but you delayed that till another time, then you have indeed abandoned your ability. Likewise, if you recite the remembrance of God (*dhikr Allāh*) one thousand times, and you have the ability to recite it once more, but you postponed it to another time, then you have not employed your ability. So is the case, if you spent your wealth on one who begs for a *dirham*, and you are able to give him another *dirham* or another grain, but you did not do that, then you have indeed abandoned your ability. It is because of this we said there is *tashdīd* in His saying 'according to your ability.'"¹²⁸

Through the Context (*qarīnah*)

Apart from the above classifications, one may decipher the sense of these two terms through the context (*qarīnah*) of the *Qur'āmic* verse. They fall under the following category:

(a) both *takhfīf* and *tashdīd* are present in one *āyah*

Verily the carcass, the blood, the flesh of the pig and that which has been slaughtered without uttering the name of God, are prohibited for you all (1st part)

However, whoever is compelled without wilful disobedience nor transgressing the limits, there is no guilt in him (2nd part).¹²⁹

In the 1st part of this verse there is *tashdīd*, since consuming such items is prohibited. However, in the 2nd part there is *takhfīf* since they are permitted.

(b) *takhfīf* in one *āyah* and *tashdīd* in another *āyah*

Regarding the *nafaqah* (i.e.: the maintenance of a widow after her husband's death, the *Qur'ān* says:

A

Those of you who die and leave widows should bequeath for their widows a year's maintenance and residence without making them leave.¹³⁰

B

Those of you who die and leave widows, they (i.e.: the widows) shall wait concerning themselves four months and ten days.¹³¹

In this in the verse B there is *tashdīd* for the widow and *takhfīf* for the deceased. That is, in her case she has a limited period of maintenance, which is financially less burdening for the heirs of the deceased. While in the verse A there is *tashdīd* for deceased and *takhfīf* for the widow, since she has a longer period of financial comfort.

(c) *takhfīf* in one *sūrah* and *tashdīd* in another *sūrah*

A

From the fruits of the date-palm and vine, you get out a wholesome drink (*sakar*) and a good sustenance (*rizq*).¹³²

B

O, You who believe! Do not approach the *ṣalāt* when you are intoxicated until you will know what you say.¹³³

C

They asked you concerning intoxicants and gambling. Say (O, Muḥammad that) there are great sins in both of them and there is no benefit for the people. Their sin is greater than their benefit.¹³⁴

D

O, You who believe! Intoxicants, gambling, worshipping of stones and casting of arrows are an abomination of Satan's handiwork. Therefore, shun him so that you may prosper. Verily Satan wants to incite animosity and hatred between you through intoxicants and

gambling so as to derail you from the remembrance of God and from the *ṣalāt*.¹³⁵

In the above verses, in verse A there is permission for the consumption of drinks extracted from vine and date-palm. However, in verse B, a slight restriction is introduced. That is not to approach *ṣalāt* in the state of intoxication, otherwise it is permitted to consume the drink. In verse C this restriction is further stressed by a prohibition in which the emphasis is placed on its comparative disadvantage and in verse D even that comparison is removed by a clear prohibition. Thus it could be seen that verse A is *takhfif* when compared to verse B and verse C is *tashdīd* when compared to Verse B. While verse C is *takhfif* when compared to Verse D. And verse A is *mukhaffaf* when compared to verses C and D. Likewise Verse D is *mushaddad* when compared to verses A and B.

One may wonder why al-Sha'rānī did not make such a synthesis in respect of the *Qur'ānic āyah*. Explaining the reason for that, he says,

Know brother, I did not leave the synthesis between the *Qur'ānic āyah* by which the *a'imma* took (their evidences) and differed in respect of its meaning by way of ignorance of it. This is due to the concealment of the understanding of the *mujtahids* in respect of it, as opposed to the *aḥādīth* of the *sharī'ah* which came as an explanation to that which is more general (*ajmal*) in the *Qur'ān*. Moreover, the category of *tashdīd* in the *Qur'ān* by which the '*ārif*s let themselves act are not comprehensible to anyone among the '*ulamā*' of the time let alone by others. I have composed in that a book entitled: *al-Jawhar al-Maṣūn fī 'ulūm kitāb Allāh al-Maknūn* [the well-guarded jewels in the science of that which is hidden in the Book of God],¹³⁶ in that I have mentioned about three thousand sciences.¹³⁷

Al-Sha'rānī says that scholars like Nāṣir al-Dīn al-Laqqānī al-Mālikī and Shihāb al-Dīn b 'Abd al-Ḥaqq¹³⁸ appreciated his book. Further he says that he was not alone in deducing such a great number of sciences from the *Qur'ān*. He says Afḍal al-Dīn deduced about two

hundred and forty seven thousand nine hundred and ninety nine (247999) sciences from the *sūrah al-fātiḥah* and said:

These sciences are the quintessence of the sciences of the Great *Qur'ān*.¹³⁹

Then he referred all these to the *basmalah*, then to the letter *bā'*, then to the dot which is below the letter *bā'*.¹⁴⁰ He also used to say that we would not consider a man to have attained perfection in respect of the station pertaining to the understanding of the *Qur'ān*, till he begins to deduce all its rules and the *madhāhib* of the *mujtahids* from whichever alphabetical letter he wishes.¹⁴¹ 'Alī b Abū Ṭālib is reported to have said that if he had wished he would have certainly established for the believers eighty camel loads of sciences from the dot which is below the letter *bā'*.¹⁴² Al-Sha'rānī says that, owing to that, he did not reconcile the *Qur'ānic āyāt*, whose meaning the *mujtahids* differed as to whether they were *mukhaffaf* or *mushaddad*.¹⁴³ He says, "I concealed from mentioning the side of *tashdīd* which is in the *Qur'ān* so as not to open the door of criticizing the '*ulamā*' and their rules. And I did not lay down this balance, by the praise of God, the Lofty, except to close the door of criticizing the *a'immaḥ*".¹⁴⁴

Usage of *Takhfīf* and *Tashdīd* in the *Ḥadīth*

As in the *Qur'ān*, the usage of *takhfīf* and *tashdīd* in the *ḥadīth* can be studied as follows:

- words denoting *tashdīd* and *takhfīf* *per se*.
- usage of terms alluding to the meanings of these two terms.
- deciphering the sense of these two terms from the *qarīnah*.

When one studies the compilations of the *aḥādīth* in various compendia, one will easily come across the usage of these two terms or their derivatives. For instance, in the concordance of *aḥādīth* by Wensinck, he has listed all those *aḥādīth* in which these two terms have occurred *per se*, their various derivatives and other words which denote the meanings of these two words. As such, the researcher feels that it is unnecessary to list those *aḥādīth*, in which these have occurred. However, to quote a few by way of example:

- When a man from the People of the Book committed adultery during the period of the Prophet, some of them said to others, "Come with us to this Prophet, for he is a Prophet who has been sent with the *takhfif*".¹⁴⁵

- *mā kānū yushaddidūna tashdīdakum*
they were not used to (apply) your (standard of) *tashdīd*.¹⁴⁶

As for the *aḥādīth* in which the connotations of these terms are known through the context, it suffices to give the following examples from *al-Mīzān*:

A

(1) During the Conquest of Makkah the Messenger of God performed the five *ṣalawāt* with one *wuḍū'*.¹⁴⁷

(2) The Messenger of God performed the five *ṣalawāt* with one *wuḍū'*.¹⁴⁸

(3) The Messenger of God used to make *wuḍū'* for every *ṣalāt*.¹⁴⁹

B

(1) The Messenger of God buried the *shuhadā'* (martyrs) of Uḥud in their blood and neither performed *ṣalāt* over them nor washed them.¹⁵⁰

(2) The Messenger of God performed *ṣalāt* over the *shuhadā'* of Uḥud.¹⁵¹

C

I was stopping you from visiting the graves (1st part),
now you can visit them (2nd part).¹⁵²

In the above examples, A:(1) and (2) contradicts A:(3) while B:(1) contradicts B:(2). In the previous two *aḥādīth* there is *takhfīf* since there is permission for the *mukallafs* to perform their five daily *ṣalawāt* with one *wuḍū'*, whereas there is *tashdīd* in A:(3) since making fresh *wuḍū'* is made obligatory. Similarly, in the case of B:(1) there is *takhfīf*, since there is no need to perform the *ṣalāt al-janāzah* for the *shuhadā'*, whereas in B:(2) there is *tashdīd* in that respect. In the first part of C, there was *tashdīd*, since the believers were not allowed to visit the graves. While in its second part there is *takhfīf*, since they are permitted to do so.

Moreover, when a rule is one of *takhfīf* in the *Qur'ān*, it will have its opposite *tashdīd* in the *sunnah* and vice-versa. For example, it was a *sunnah* to face the *al-Aqṣā* mosque in Jerusalem in *ṣalāt*, but this rule was given *tashdīd* when God said, "so turn your face towards the inviolable *masjid*."¹⁵³ Here the permission to face the direction other than the *masjid al-ḥarām* is a *takhfīf*, whereas to make everyone face the *masjid al-ḥarām* is *tashdīd*. Similarly it is said in the *Qur'ān*:

It is prescribed, when death approaches any of you, if he leave any goods, that he make bequest to parents and next of kin.¹⁵⁴

This verse is given a *tashdīd* by the saying of the Prophet, "There shall be no bequest to an inheritor."¹⁵⁵ In the verse there is *takhfīf* for the kin, but in the *sunnah* there is *tashdīd* against their inheriting the bequest.

A study of the Prophet's life will show that on many occasions he was considered to enable the believers to perform what was *takhfif*. He did this through: (1) explaining the concessions provided in *Islām*, (2) fearing the imposition of difficulty on his *ummah* and (3) commanding his *ṣaḥābah* to act according to the concession and discouraging ordinary people from over-exertion (*ta'ammuq*) and *tashdīd* in their religious observations.

Later Developments

Following the teachings of the Prophet, his successors both the *ṣaḥābah* and their *tābi'īn* also likewise encouraged the performance of *takhfif* and *taysīr*. For instance, al-Sha'bī used to say, "If you are faced with two contradictory situations, then the easier (*aysar*) of the two is more appropriate."¹⁵⁶ While Sufyān al-Thawrī says, "It is wiser to listen to the *rukḥṣah* from a reliable person. As far as the *tashdīd* is concerned, everyone can perform it [*innamā al-'ilm 'an tasma' bi al-rukḥṣah min thiqqah fa ammā al-tashdīd fa yuḥsinhu kull aḥad*]."¹⁵⁷

Scholars using both these terms are few indeed. Most of them use either one of them or other terms which denote the same connotation as these two terms. Thus their usage can be studied under:

- (1) *takhfif* or its derivatives with any other words of severity.
- (2) *tashdīd* or its derivatives with any other words of leniency.
- (3) words other than *takhfif* and *tashdīd* are used.
- (4) Both *tashdīd* and *takhfif* are used *per se*.

As for the former three categories there are many scholars who have resorted to such usage. Most of the *uṣūlīs*, *mufasssirs* and *muḥaddiths* have either used one of them with their opposites. For instance, in *al-Ishārāt al-Ilāhiyyah*, al-Ṭūfī¹⁵⁸ uses the term *khafīf* with *thaqīl*.¹⁵⁹ While ‘Izz al-Dīn ‘Abd al-Salām uses *shadīd* with *takhfīf*.¹⁶⁰

As for those who have used both these terms to signify determination and concession, they are few indeed. They include people like al-Khāzin,¹⁶¹ al-Rāzī,¹⁶² al-Qurṭubī¹⁶³ and al-Shāṭibī. In the study of the works of these men the researcher found that it is al-Shāṭibī who has made the most significant use of both these terms, even though al-Sha‘rānī does not mention his work on *uṣūl*, *al-Muwāfaqāt*, among the works he has studied before laying down this balance. In explaining these two terms al-Shāṭibī says:

Every universal legal principle (*al-kulliyah al-shar‘iyyah*) essentially takes the middle position. But if it leans towards one of the extremes, it will do so because of actual or possible inclination towards the other end. The tendency of *tashdīd* (severity) is brought forward to balance the laxity in a *mukallaf*’s regard for *dīn*. The tendency to *takhfīf* (laxity)¹⁶⁴ is brought forward to balance hardship and severity. The departures from the middle position, as reported in the traditions, must be understood in the light of the above explanation. This departure is meant to balance the severity or laxity, whichever the case may be, inherent in the act which is the object of obligation. Similarly the stress on piety (*wara’*) and asceticism and the like, when they appear to be departures from the middle position, should also be taken as an attempt to balance the laxity in obligation.¹⁶⁵

Further he is quoted as saying, "Obedience to law comes within the capacity of man without necessitating any *mashaqqah* or any leniency."¹⁶⁶ To al-Shāṭibī, *takhfīf* and *tashdīd* are applied to two kinds of people. They are: (1) *arbāb al-ḥuḏūḏ* and (2) *arbāb al-aḥwāl* or *ahl isqāt al-ḥuḏūḏ*.¹⁶⁷ As far as the *arbāb al-ḥuḏūḏ* are concerned,

they are "those for whom carrying out a particular act causes extraordinary hardship, or those for whom not availing of the *shar'ī* allowance, means inviting harm. Such people must not carry out an act of this kind and should avail themselves of the *shar'ī rukhṣah*".¹⁶⁸ He warns the *mukallafs* from following one's *ḥuḏūḏ* to such an extent that "one departs from the bondage of *'ubūdiyyah*".¹⁶⁹ "The true position according to *sharī'ah*" says al-Shāṭibī, "is a combination of both aspects with a view to balance (*adl*); to pursue one's *ḥuḏūḏ* as long as the pursuit does not interfere with an obligatory duty, and to abstain from *ḥuḏūḏ* as long as the abstinence does not lead to prohibition."¹⁷⁰ On the contrary, the *arbāb al-aḥwāl* are "those for whom such acts do not bring about fatigue and hardship because of their acts being governed by fear, hope or love. The fear makes the hardship feel less; the hope relaxes the hardness of the act, while the love renders the act rather enjoyable. This group is so engrossed in fulfilling their duty to God on the basis of fear, hope and love that they even forget their own *ḥuḏūḏ*. They give up personal considerations."¹⁷¹

Al-Sha'rānī's theory

In elucidating the difference between *takhfīf* and *tashdīd*, al-Sha'rānī has elaborated the differences between the two categories of the *mukallafs* whom he calls *al-akābir* and *al-aṣāghir*. He states that the *akābir* are those who are pious (*ahl al-wara'*)¹⁷² who count *ghaflah* (inadvertence) as *ḥadath* (offence) and seek forgiveness from God.¹⁷³ They are also people of purity (*ahl al-tanazzuh*)¹⁷⁴ to such an extent that they consider that the mere touching of a woman or any part of her body including the nail, hair and teeth, even without any feeling of lust,

is considered as impure.¹⁷⁵ They act according to certainty (*al-yaqīn*) without doubt (*al-shakk*).¹⁷⁶ They are intense in glorifying God.¹⁷⁷ Furthermore they do not commit any sins, such that even their bodies do not stand in need of constant washing with water.¹⁷⁸ They are the people of proximity (*ahl al-qurb*), who witness the precinct of God.¹⁷⁹ They are intense in purity (*al-tanazzuh*).¹⁸⁰ They commit few sins as compared to the *aṣāghir*.¹⁸¹ Their bodies have strong spiritual strength¹⁸² and their hearts are always present before God.¹⁸³ Neither trade nor sales will distract them from remembering God.¹⁸⁴ They are capable of bearing the intense Divine manifestation (*thaqīl al-tajallī al-ilāhī*).¹⁸⁵ They are constant in performing their *ṣalāt*.¹⁸⁶ They perform more acts at one time.¹⁸⁷ They have strong determination in driving Satan away.¹⁸⁸ In bowing and prostration they are able to prolong the act¹⁸⁹ and in standing at ease (*qiyām*) they shorten it.¹⁹⁰ Their veils are removed from them.¹⁹¹ Even though apparently they might look like following an *imām*, in fact they are with God at all times.¹⁹² They are very scrupulous in observing good manners with God.¹⁹³ They keep a constant watch over themselves from falling into sin.¹⁹⁴ They are people of prudence (*ahl al-iḥtiyāt*).¹⁹⁵ They do not fear anyone.¹⁹⁶ They do not worry about losing family or wealth.¹⁹⁷ Moreover, they can control their desires and lusts.¹⁹⁸ They are pious and noble.¹⁹⁹ They give preference to others before them.²⁰⁰ However this is not always the case, for the Prophet is reported to have said: "Start with yourself; thereafter with one who depends on you [*ibda' bi nafsik thumma biman ta'ūl*]." ²⁰¹ This statement, according to al-Sha'rānī, is addressed to the most perfect of the *mukallafs* (*al-kummal*) who act according to the Prophetic saying, "Clearly the near ones are

more appropriate for good action [*al-aqrabūna awlā bi al-ma'rūf*]"²⁰² and there is no one close to him except himself.²⁰³ As far as the statement of the *Qur'ān*, "They give preference to others over themselves [*wa yu'thirūna 'alā anfusihi*]"²⁰⁴ is concerned, al-Sha'rānī says that it is addressed to those other than the great personalities among the *ṣaḥābah* and it was praising them for that so as to make them depart from the "ditch of stinginess" which their eyes had witnessed in the world.²⁰⁵ Therefore when they depart from that they were ordered to begin with themselves.²⁰⁶ This is because it is a trust which they have been given by God whereas anything else is not a trust given by God and as such it is only something which is adjacent to them.²⁰⁷ Quoting 'Alī al-Khawwāṣ, al-Sha'rānī says:

If the perfect one does injustice to himself by putting others before him, God would blame him for that, owing to his departure from justice which he was instructed to observe, as opposed to the *murīd*, who does not mind doing injustice to himself in pleasing God and carrying it out beyond his ability in the *'ibādāt* and even aspiring to gain reward for that. Then if he reached the end of the relative path (*al-sulūk al-nisbiyyah*) which is equal to reaching the merit for the reward which is desired, he would be like one who had reached the domain of the kingdom (*dār al-mulk*) and had come to know from those who have something to expect from him, he is ordered at that time to be good to himself, for it is his means (*maṭiyyat*) of reaching the precinct of his Lord.²⁰⁸

Further the *akābir* are people of lofty ambition (*aṣḥāb al-himam*)²⁰⁹ and they understand the secrets of the *sharī'ah*.²¹⁰ They do not need any intercessor (*shāfi*).²¹¹ They are people of generosity (*ahl al-sakhā'*).²¹² On the other hand, the *aṣāghir* are those who do not come within the above criteria. They are those who give importance to worldly things and are less scrupulous in observing religious requirements.²¹³ It is for them that the *rukḥṣash* or *takhfīf* is meant. As far as the *akābir* are concerned they are expected to act according to *'azimah* or *tashdīd*. However, according to al-Sha'rānī, a *mukallaf* has

no choice in acting according to the *rukḥṣah* and 'azīmah while he has the strength to act according to the 'azīmah which has been specified for him,²¹⁴ for this would be like playing with the *dīn*.²¹⁵ The author reiterates time and again that the *rukḥṣah* is for those who are definitely (*qaṭ'an*) incapable of performing the 'azīmah.²¹⁶ Because, at that time the *rukḥṣah* becomes 'azīmah in respect of him.²¹⁷ That is why scholars have opined that the non-performance of the *ṣalāt* for a woman in her period of *ḥayḍ* or *nifās* is an 'azīmah, though it is a *rukḥṣah*, if the physical inability is taken into consideration.²¹⁸ Thus, according to al-Sha'rānī, "It is obligatory for every follower, by way of fairness, not to act according to the *rukḥṣah*, which the *imām* of his *madhhab* opined, except if he was of that category. Whereas, it is obligatory for him to act according to the 'azīmah which is opined by another *imām*, whenever he has the capability of doing it. This is because originally the rule refers to the speech of the *shārī'* and not to anyone else. As such if anyone were to say that he will not act according to a *ḥadīth* which his *imām* has not found in Bukhārī and Muslim, then he is ignorant of the *sharī'ah*. His *imām* will be the first one to dissociate himself from him."²¹⁹

When, at the repeated requests of some scholars, he studied the *shara'ī* proofs and the opinions of the *a'immaḥ* to bring about an agreement between what they believed in their hearts and uttered by the tongue that all the *imāms* of the Muslims are guided by their Lord, al-Sha'rānī did not find any one of the proofs and opinions departing from the two sides of *takhfīf* and *tashdīd*.²²⁰ Even though the *tashdīd* is meant for the strong ones and the *takhfīf* for the weak ones, there must be some exception to this general rule. That exception is attained by the

rule of *takhyīr* (choice).²²¹ For, al-Sha'rānī maintains that if it is allowed for the strong one to descend to the grade of *rukḥṣah* and *takhfīf* while he has the strength to perform the more difficult, the two sides of the balance shall not be on the basis of the order of obligation.²²² That is like the choice of one who performs his ablution (*mutawaddī*), if he was wearing leather boots, between removing them and washing the feet or simply rubbing the boots, despite the fact that the washing of the feet is better than *mash*.²²³ Thus washing the feet is better, except for one who hates to do the *mash*, in spite of his knowledge of the validity of the *aḥādīth* about it.²²⁴ Therefore, for such a person, *mash* is better, despite the fact that it was said to him that the two sides in respect of this person are also on the basis of the order of obligation, which means that if he wishes to serve God in the best way then it is obligatory for him to perform the best practice of '*azīmah*.²²⁵ That is either the washing in view of the condition of the majority of the people or the *mash* in view of that strange person who hates to do the *sunnah*.²²⁶ Likewise it is incumbent on the *mukallaf* to seek exception from the obligation of performing the required action in order to act according to the two sides of the balance.²²⁷ That is by performing them at two separate times.²²⁸ For instance, wiping the whole head at one time and wiping a part of it at yet another time.²²⁹ Therefore, only if one wishes to attain proximity to God, is it obligatory for him to make preference for wiping the whole head over the wiping of a part of it.²³⁰ In this regard, al-Sha'rānī quotes Muḥammad b al-Mundhir as saying:

If the performance of two actions at two (different) times has been ascertained in respect of the *shāri'*...then the *mukallaf* has a choice as long as the abrogation has not been established. Therefore, the

mukallaf shall act by this matter once and by the other matter at another time.²³¹

When abrogation is established then there is no choice. For, al-Sha'rānī, quoting 'Abd Allāh b al-'Abbās, says:

The last of two actions done by the Messenger of God...is the abrogation by the *muḥkam* statement.²³²

Though it is a majority view, according to al-Sha'rānī, it is not a universal view.²³³ For, if it had been a universal view we would have to adjudge the former of the two actions to have been certainly abrogated with regard to the issues like the one mentioned above.²³⁴ There would not have arisen any differences since the issue would then have been settled by the Prophet.²³⁵ Therefore in the absence of any established abrogation, the issues in which disputes are present should be made an obligation in time of summer and wiping the part of it should be made an obligation in the time of winter, especially in the case of one who was bald or who has just shaved his head or one who fears the falling of *ḥawādir* from his head.²³⁶

In the previous chapter, al-Sha'rānī was quoted as saying that his usage of the terms '*azīmah* and *rukḥṣah* is unlike the usage of the *uṣūlīs*. To the *uṣūlīs* the opposite of *rukḥṣah* is '*azīmah*. Whereas, al-Sha'rānī maintains that the opposite of *rukḥṣah* is *afḍal*. He says:

We did not call the stage of *takhfīf rukḥṣah* only after looking at its opposite from the *tashdīd* as *afḍal*.²³⁷

Otherwise, al-Sha'rānī says, the one who is incapable shall not be legally obliged to perform that which is beyond his power, since he has not been obliged to do that which is beyond his power.²³⁸ Thus, there

only remains for him the performance of the *rukḥṣah* as a necessary duty, just as the *‘azīmah* is the duty of those who are strong.²³⁹ Therefore, it is not permitted for the one who is incapable to descend from the *rukḥṣah* to the stage of non-performance of the act completely.²⁴⁰ For instance, if a *mukallaf* who is unable to stand up for the obligatory *ṣalāt* is able to sit, it is not permitted for him to lie down on his belly, or if he is able to lie on his belly either on his right or on his left, it is not permitted for him to lie on his back (*istilqā’*), or if he is able to lie on his back it is not permitted for him to be content with performing the *ṣalāt* postures by moving the eyes, or if he is able to make movements by his eyes, it is not permitted for him to be content with running through the actions of the *ṣalāt* in his heart.²⁴¹ Therefore, for every one of these stages, by comparison, that which is before it is like the *‘azīmah* with the *rukḥṣah*.²⁴² As such, it is not permitted for him to descend to it, except after he becomes incapable of performing that which is before it.²⁴³ Thus, according to al-Sha‘rānī, all those who perform the *rukḥṣah* according to its conditions or the *maḍḍūl* according to its conditions, are guided by their Lord, just as the one who acts according to the *‘azīmah* or the *afḍal* with difficulty is also guided by his Lord in respect of that even if the *shāri‘* did not compel him to do that.²⁴⁴ This is due to the severity of the difficulty in it, unless there comes from the *shāri‘* that which contradicts that.²⁴⁵ For example, al-Sha‘rānī comments on the saying of the Prophet:

laysa min al-birr al-ṣiyām fī al-safar
[it is not good to fast during a journey],²⁴⁶

that it is *afḍal* for the *musāfir* to break the fast in such a situation.²⁴⁷ For it might be injurious to the *mukallaf*. The best way of approaching

the precinct of God is through a delighted *nafs* which has no hatred.²⁴⁸ All those who perform their 'ibādah with a hatred for it in their hearts would depart from the legal proximity by which one could reach the Divine Precinct.²⁴⁹ Moreover, the Prophet did not approve of a *ṣawm* which would harm a *musāfir*.²⁵⁰ So, being followers of the *shāri'*, it would be appropriate for him to approach God only through what the *shāri'* has permitted for him and by what the *mukallaf*'s heart would gain delight from acting according to the recommended practices (*mandūbāt*).²⁵¹ It, as has been said, is only in respect of that which the *shāri'* has permitted. As for that for which he has not given permission, al-Sha'rānī suggests, "it is nearer to innovation".²⁵² For the exoteric meaning of the Book and the *sunnah* does not give evidence for every innovation so that through them a *mukallaf* might approach God.²⁵³ To illustrate this, al-Sha'rānī mentions the performance of *ṣalāt* in the state of drowsiness. If drowsiness overcomes the servant while he was performing the duty of *ṣalāt*, then he has become like someone who has been compelled to perform it. As a result, he might lose his fixed reward.²⁵⁴ Therefore, al-Sha'rānī urges the *mukallafs* to act according to the *rukḥṣah* with its conditions.²⁵⁵ For, he says quoting the *ḥadīth*:

God loves you to perform His *rukḥṣah* just as He loves you to perform His 'azīmah.²⁵⁶

That means that to act according to the *rukḥṣah* and the 'azīmah in their appropriate places is an obligation. However, in the opinion of al-Juwaynī, "it is in the interest of the people of godliness and piety (to act according to the) 'azā'im, whereas acting in (matters of) differences in respect of it is (considered as) *rukḥṣah*. On the other hand, if a person

is subject to extreme hardship (*ḍarūrah*) but it is possible for him to perform the '*azīmah*, then he is equally able to perform it or leave it."²⁵⁷ Al-Sha'rānī, however, urges the *mukallafs* to perform the '*azīmah* even with difficulty, if one chooses that by way of striving with oneself.²⁵⁸

Regarding the performance of *rukḥṣah* while one has the ability to perform the '*azīmah*, al-Sha'rānī says that it is required of such a person to perform the *rukḥṣah*, provided that he belonged to that category and not generally.²⁵⁹ He says in respect of a person who performs his *ṣalāt* after touching his private part without renewing his ablution that if such a person has been afflicted with an increase of uneasiness (*waswās*) in respect of the ablution for the *ṣalāt al-ṣubḥ*, for instance, till the time is about to expire, such that he has departed from the state of purity and unintentionally touched his private part, then in his case it is permitted for him to follow Abū Ḥanīfah in respect of the *ṣalāt* with the ablution in which occurred the incident of touching his private part.²⁶⁰ Since no abrogation is established in respect of the *ḥadīth*:

Is it not but a flesh from you?²⁶¹

The issue is then referred to the two sides of the balance. Therefore, it is not required of one who is not afflicted with the uneasiness to perform his *ṣalāt* if he had touched his private part or a strange woman except after renewing the ablution.²⁶² But, had Abū Ḥanīfah or his disciples been successful in locating the *ḥadīth*:

Whoever touches his private part, then let him make ablution,²⁶³

on which the Shāfi'ites base their rejection of Abū Ḥanīfah's view, then he would certainly have applied both *aḥādīth* to the two sides of the balance by applying the former to the common people and the latter to the great personalities among the 'ulamā' and the pious ones.²⁶⁴

As for the non-performance of the 'azīmah while one has the ability to do so, al-Sha'rānī says that it is not permitted.²⁶⁵ For instance, in the case of the recitation of the *fātiḥah* in the *ṣalāt*, al-Sha'rānī says that the non-recitation of *al-fātiḥah* in *ṣalāt* when one has the ability to recite it is not permitted.²⁶⁶ For, "it is an 'azīmah".²⁶⁷ Therefore, "if he is able to recite it, then he should not be content without it. However, if he is unable to recite it, then he should recite other verses".²⁶⁸

In these ways al-Sha'rānī establishes his stand on *rukḥṣah* and 'azīmah. These two terms in the usage of the uṣūlīs are given a restricted application, that is they treat *rukḥṣah* under the rule of exception. However, in the opinion of al-Sha'rānī both are obligations with equal strength, meaning that the performers of *rukḥṣah* and 'azīmah are equally rewarded, since the *rukḥṣah* in respect of the one who is incapable is itself an 'azīmah for him.

The presumption that 'azīmah is meant for the *akābir*, in the opinion of the uṣūlīs is not shared by al-Sha'rānī. He has provided instances where acting according to the *rukḥṣah* is made an obligation for them. For instance, the recitation of *isti'ādhah* (i.e.: the utterance of *a'ūdhu bi Allāh min al-shayṭān al-rajīm* - I seek protection from God from Satan the accursed) in every *raka'ah* is obligatory on the *aṣāghir*, as opposed to the *akābir*.²⁶⁹ For it is sufficient for them to recite it once in the first *raka'ah*, since they are able to complete their

ṣalāt without the interference of Satan.²⁷⁰ This is not the case with the *aṣāghir*. They are required to utter the *isti'ādah* at every *raka'ah*.²⁷¹ Moreover it is not always required of the *akābir* to act according to the *wājibāt*. For instance in taking leave from the *ṣalāt*, it is not obligatory for the *akābir* to seek permission (by saying *assalāmu 'alaykum wa raḥmat Allāh* - with the intention of leaving the *ṣalāt*), since they are witnessing that the entire creation (*wujūd*) is the precinct of God.²⁷² They do not see the possibility of being separate from the precinct of God.²⁷³ This is not the case with the *aṣāghir*. Even the *akābir* can act according to the *mukhaffaf*. As an example, al-Sha'rānī says that Mālik and al-Shāfi'ī opined that it is permitted for a man to perform his *ṣalāt* while a (strange) woman stands by his side.²⁷⁴ Abū Ḥanīfah opines that it will invalidate his *ṣalāt*.²⁷⁵ The first opinion is *mukhaffaf*, which is meant for the *akābir* who will not be distracted from God by any distraction (*shāghil*). While the second opinion is *mushaddad*, which is meant for the *aṣāghir*.²⁷⁶

Thus it becomes clear that the classification is based on the ethical and spiritual status of the *mukallafs*. However, it is not the case always. At times, al-Sha'rānī takes into consideration other worldly matters such as financial and environmental factors which determine the course of action for the *mukallafs*. For instance, regarding the wilful commission of sexual intercourse with a menstruating wife, the four *a'immaḥ* opined that there is no penalty (*gharam*) against him, except seeking forgiveness from God and sincere repentance.²⁷⁷ However, Aḥmad Ibn Ḥanbal in one of his narrations held that it is befitting for such a person to give some money away in charity.²⁷⁸ Al-Shāfi'ī in his earlier opinion made a penalty necessary.²⁷⁹ In respect of the amount to

be given away in charity, there are two opinions. However, the popular one is one *dīnār* as is the opinion of Aḥmad b Ḥanbal.²⁸⁰ Secondly the manumission of a slave in any condition.²⁸¹ In the other opinion of Aḥmad b Ḥanbal, the quantity is set at a *dīnār* or its half, without any difference regarding the manner of intercourse.²⁸² The first opinion is *mukhaffaf*, while in the second opinion there is *tashdīd*, while the manumission of a slave is the extreme degree of *tashdīd*.²⁸³ Thus the matter returns to the two sides of the balance. The first opinion is predicated for the condition of the poor who do not have money, while the second opinion is predicated for the condition of the middle-ranking people (*mutawassitīn*), whereas the manumission of a slave is predicated for the condition of the people of means.²⁸⁴

In the case of determining the start of female menstruation, al-Sha'rānī says that Mālik, al-Shāfi'ī and Aḥmad Ibn Ḥanbal opined that a female starts her menstrual cycle at the age of nine, which is also the preferred opinion of Abū Ḥanīfah.²⁸⁵ However, in another opinion attributed to the latter, he is said to have opined that there is the possibility of a female not attaining her puberty until she is fifteen.²⁸⁶ The first opinion is *mushaddad*, while the second opinion is *mukhaffaf*. Thus the matter returns to the two sides of the balance.²⁸⁷ The first opinion is particular to one who is from a predominantly hot country (*bilād ḥārrah*), while the second opinion is particular to one who is from a cold country.²⁸⁸ However, suprisingly the use of sand for *tayammum* is made obligatory for the *aṣāghir*, while making *tayammum* with stones is made obligatory for the *akābir*, even though the latter, according to al-Sha'rānī, have more spiritual strength.²⁸⁹

Even in the classification of *takhfif* and *tashdīd* ranging from *mukhaffaf* to *mushaddad*, al-Sha'rānī has expounded a new theory. That is, he believes that all these sides are themselves divisible into *takhfif* and *tashdīd*. For instance, in the case of *mushaddad*, it has two sides of *tashdīd* and *takhfif*, such that the *takhfif* of *mushaddad* is the *tashdīd* side of *tashdīd*. Further the *mufaṣṣal* is divisible into:

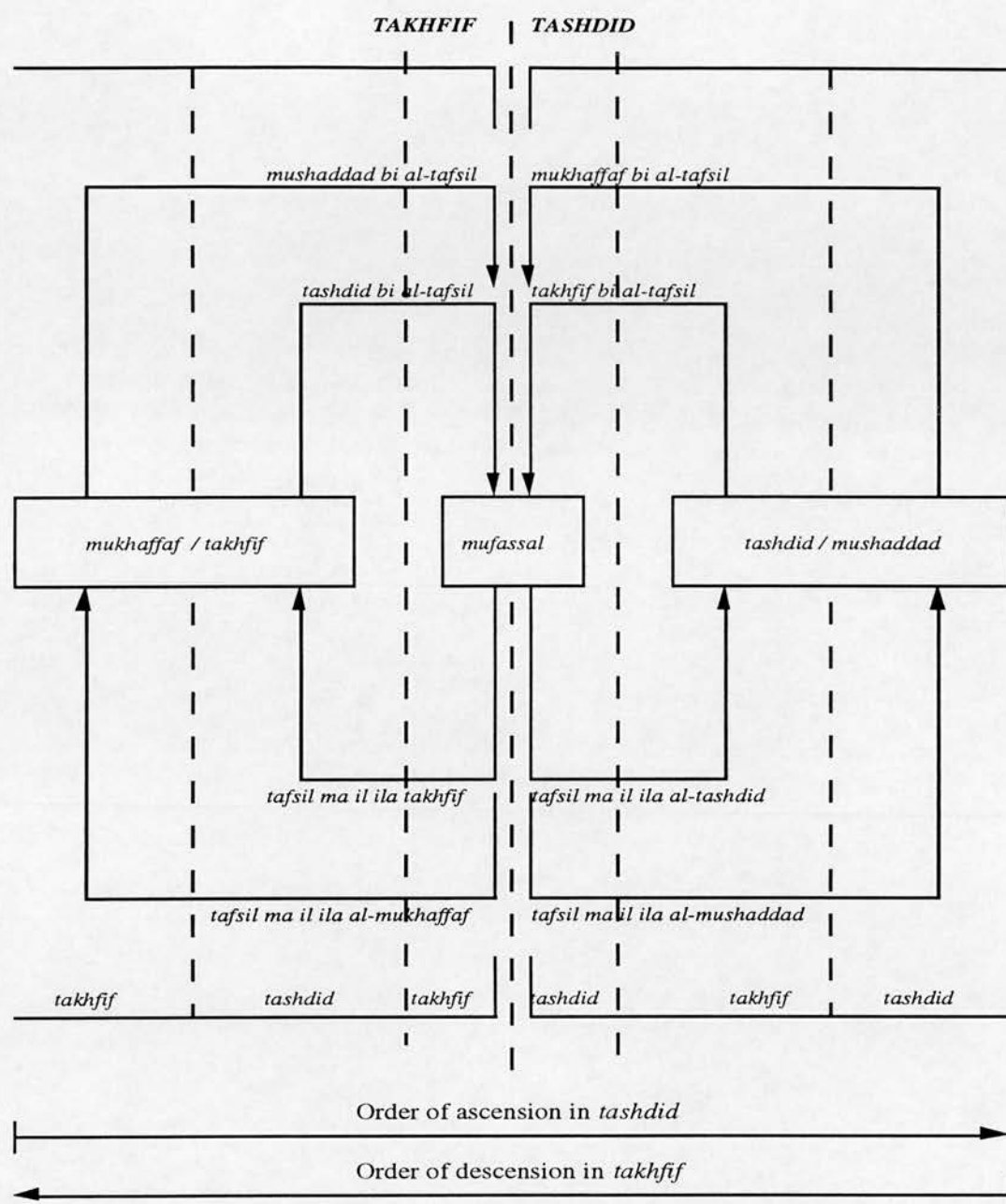
(a) *tafṣīl mā'il ilā al-takhfif / al-mukhaffaf - tafṣīl* inclined towards *takhfif / mukhaffaf*.

(b) *tafṣīl mā'il ilā al-tashdīd / al-mushaddad - tafṣīl* inclined towards *tashdīd / mushaddad*.

(e) *tashdīd / mushaddad bi al-tafṣīl - tashdīd / mushaddad* towards *tafṣīl* (i.e.: from *takhfif / mukhaffaf* to *mufaṣṣal*).

(f) *takhfif / mukhaffaf bi al-tafṣīl - takhfif / mukhaffaf* towards *tafṣīl* (i.e.: from *tashdīd / mushaddad* to *mufaṣṣal*).

This is illustrated in the following diagram:

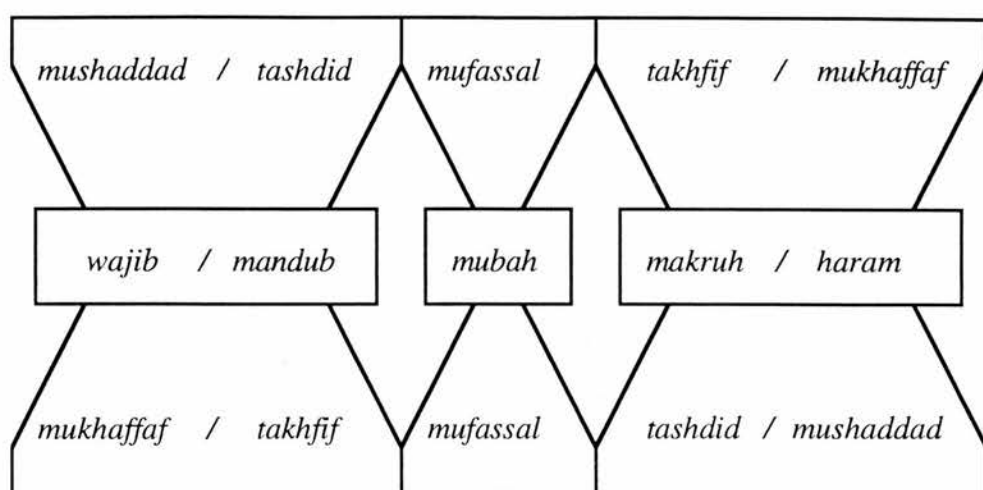


For instance, in the case of one who has fractured some part of his body and has plastered his injury, it is permitted by al-Shāfi‘ī to wipe over it and perform *tayammum*.²⁹⁰ However, Abū Ḥanīfah and Mālik opined that, if some of his parts are healthy (*ṣaḥīḥ*) while some other parts are injured such that the *ṣaḥīḥ* part is more than he should wash it and the rule due to injury becomes invalid and it is considered *mustahabb* to wipe it with water.²⁹¹ However, if the *ṣaḥīḥ* part is less

then he should make *tayammum* and the need to wash the *ṣaḥīḥ* part will become invalid.²⁹² On the other hand Aḥmad opined that the *ṣaḥīḥ* part should be washed and for the injured part *tayammum* should be made without wiping the plaster.²⁹³ Thus the first opinion is *mushaddad*, while the second opinion is *mukhaffaf* towards *tafṣīl*, since it is subject to the extent of the injury.²⁹⁴

In the issue of a *qāḍī*'s deciding a case beforehand, al-Sha'rānī states that Abū Ḥanīfah is of the opinion that it is not permitted for the *qāḍī* to bring his own personal knowledge into a judgement in which there could be a *ḥadd* penalty. However, in cases where that penalty is not involved, he may use his own personal knowledge as a supplement to the court proceedings.²⁹⁵ Mālik and Aḥmad opined that he (i.e.: a *qāḍī*) will not actually judge according to his understanding, irrespective of whether that is the right of God or not.²⁹⁶ On the other hand, the stronger one of the two opinions of al-Shāfi'ī is that he (i.e.: the *qāḍī*) judges according to his understanding except in the *ḥudūd* of God.²⁹⁷ Thus in the first and the third opinion there is *tashdīd* on the *qāḍī* towards *tafṣīl* which they both have mentioned and there is *takhfīf* on him according to what he has understood of the rights of people. While the second opinion is *mushaddad*. Thus the matter returns to the two sides of the balance.²⁹⁸

The above diagram might remind the reader of the five legal rules, that is the *wājib*, *mandūb*, *mubāḥ*, *makrūh* and *ḥarām*. However, this does not mean that all *wujūb* are always *mushaddad*. For it might also be *mukhaffaf*. This can be shown as follows:



Perhaps, this could have been a basis on which al-Sha'rānī built his balance.

Before concluding this chapter, it is pertinent to stress al-Sha'rānī's stand on abrogation and *ijmā'*. Al-Sha'rānī is faced with a dilemma of reconciling the abrogated verses or rules with the abrogating verses or rules. Even though he does not deny abrogation *per se*, he nevertheless does not state clearly his stand on the issue. Perhaps he might have felt that that would defeat his purpose in composing this balance. He has gathered those elements which would bring about unity. Since his prime concern is to balance the different opinions, al-Sha'rānī simply listed those issues where the *a'imma* have reached their consensus, without discussing the issues pertaining to *ijmā'*.

ENDNOTES TO CHAPTER SIX

¹ see Ibn Nujaym, Zain al-'Abidīn b Ibrāhīm, *al-Ashbāh wa al-Nazā'ir 'alā madhhab Abī Hanīfah al-Nu'mān*, ed. by 'Abd al-'Azīz Muḥammad al-Wakīl, (Cairo, 1968), p. 75; al-Suyūṭī, Jalāl al-Dīn 'Abd al-Raḥmān, *al-Ashbāh wa al-Nazā'ir fī qawā'id wa furū' fiqh al-Shāfi'iyyah*, (Beirut, 1983), p. 78; Zuhaylī, Dr. Wabbah, *Nazriyyah darūrah al-Shar'iyyah*, 4th ed., (Beirut, 1985), p. 195. Hereafter cited as *Nujaym*, *Ashbah* and *Darūrah* respectively.

² *Ashbah*, op. cit., p. 83.

³ *Al-Qur'ān*, 3:159.

⁴ *Ibid.*, 31:17; see also *Ibid.*, 3:186; 42:43.

⁵ Al-Ghorab, Mahmoud, "Muhyiddin Ibn al-'Arabī Amidst Religions (*adyān*) and Schools of Thought (*madhāhib*)," in *MACV*, op. cit., p. 224.

⁶ *Wehr*, op. cit., pp. 248-9. s.v. kh. f. f.

⁷ *Ibid.*, pp. 459-60. s.v. sh. q. q.

⁸ *Al-Mizān*.

⁹ *al-Qur'ān*, 16:7.

¹⁰ see Ibn Athīr, Majd al-Dīn Abū al-Sa'ādāt al-Mubārak Muḥammad, *al-Nihāyah fī gharīb al-Hadīth wa al-Athar*, ed. by Tāhir Aḥmad al-Zāwī and Maḥmūd Muḥammad al-Tanāhī, (Beirut, 1963), 2:491.

¹¹ He is Qāsim b 'Abd Allāh b Muḥammad b al-Shāṭṭ al-Anṣārī al-Ishbīlī, born in 643 h. and died in 723 h. see *Kaḥhālāh*, 8:105; *Dībāj*, p. 226.

¹² It is the gloss on al-Qarāfī's *al-Furūq*.

¹³ Ibn al-Shāṭ, Idrār al-Shurūq 'alā anwār al-Burūq fī ta'aqqub masā'il al-Qawā'id wa al-Furūq, (Cairo, n.d.), 1:118.

¹⁴ Cf. note 1 above.

¹⁵ *Darūrah*, op. cit., pp. 196-9; Ibn Ḥumayd, Dr. Ṣāliḥ b 'Abd Allāh, *Raf' al-Ḥaraj fī al-Sharī'ah al-Islāmiyyah: Dawābituhu wa taṭbiqātuhu*, 2nd. ed., (Riyad?, 1412 h.), p. 30. Hereafter cited as *Humayd*. However, in the opinion of other scholars *mashaqqah* is divisible into three kinds: (1) *mashaqqa 'āmmah* (general difficulty) which results in *rukḥṣah*, (2) *mashaqqah khāṣṣah* (special difficulty) and (3) *mashaqqah* in between the above two *mashāq*. For details see al-Sulamī, Abū Muḥammad 'Izz al-Dīn 'Abd al-'Azīz b 'Abd al-Salām, *Qawā'id al-Aḥkām fī maṣāliḥ al-Anām*, 3rd ed., (Cairo, 1980), 1:79. Hereafter cited as *al-Anām*.

¹⁶ Masud, Dr. Muḥammad Khālid, *Islamic Legal Philosophy: A Study of Abū Ishāq al-Shāṭibī's Life and Thought*, (Islamabad, 1977), p. 258. Hereafter cited as *Masud*.

¹⁷ *Ibid.*, p. 252.

¹⁸ *Ibid.*, p. 251.

¹⁹ *Ibid.*

²⁰ *Ibid.*, p. 258.

²¹ al-Fayrozābādī, Muḥammad b Ya'qūb, *al-Qāmūs al-Muḥīt*, (Beirut, 1978), 1:182. Hereafter cited as *al-Qāmūs*.

²² *Al-Qur'ān*, 4:65.

²³ *Ibid.*, 24:61 and 48:17.

²⁴ *Ibid.*, 33:38.

²⁵ *Mafātīḥ*, op. cit., 23:73; al-Suyūṭī, Jalāl al-Dīn, *al-Durar al-Manthūr fī al-Tafsīr al-Ma'thūr*, (Beirut, n.d.), 4:371; al-Shāṭibī, Abū Ishāq Ibrāhīm, *al-Muwāfaqāt fī uṣūl al-Aḥkām*, ed. by Muḥammad Muḥyī al-Dīn 'Abd al-Ḥamīd, (Cairo, 1372 h.), 2:147. Hereafter cited as *Muwāfaqāt*.

²⁶ *Wehr*, op. cit., p. 1107.

²⁷ al-Baghā'ī, Burhān al-Dīn Abū al-Ḥasan Ibrāhīm b 'Umar, *Nazm al-Durar fī tanāsub al-Āyāt wa al-Suwar*, (Hyderabad, 1969), 3:62; al-Qāsimī, Muḥammad Jamāl al-Dīn, *Maḥāsīn al-Ta'wīl*, ed. by Muḥammad Fu'ād 'Abd al-Bāqī, (Cairo, 1957), 3:427. Hereafter cited as *Maḥāsīn*.

²⁸ *Ibid.*

²⁹ Perhaps this is his work entitled *al-Iḥkām fī uṣūl al-Aḥkām*. see *GALS*, 1:695.

- ³⁰ Ibn Ḥazm, *al-Iḥkām fī uṣūl al-Aḥkām*, 4:466.
- ³¹ He is Abū al-Qāsim Maḥmūd b 'Umar b Muḥammad b 'Umar al-Khawārizmī, an expert in *tafsīr*, *ḥadīth*, *naḥw*, *lughah* and *'ilm al-bayān*, born in 467 h. in Zamakhshar and died in 538 h. see *Wafayāt*, 5:168-74.
- ³² al-Zamakhsharī, *al-Kashshāf 'an ḥaqā'iq al-Tanzīl wa 'uyūn al-Aqāwīl fī wujūh al-Ta'wīl*, (Beirut, 1977), 1:408.
- ³³ *Humayd*, *op. cit.*, p. 47.
- ³⁴ *Masud*, *op. cit.*, p. 257.
- ³⁵ *Ibid.*, p. 258.
- ³⁶ *Humayd*, *op. cit.*, p. 173.
- ³⁷ *Ibid.*
- ³⁸ *Ibid.*, p. 175.
- ³⁹ *Ibid.*, p. 180.
- ⁴⁰ Ibn Athīr, Majd al-Dīn Abū Sa'ādāt al-Mubārak b Muḥammad, *Jāmi' al-Uṣūl fī aḥādīth al-Rasūl*, ed. by 'Abd al-Qādir al-Arnā'ūt, (Cairo, 1389 h.), 10:677-8.
- ⁴¹ He is
- ⁴² He is
- ⁴³ *Humayd*, *op. cit.*, pp. 180-1.
- ⁴⁴ *Al-Ta'rīfāt*, *op. cit.*, p. 143.
- ⁴⁵ He is Abū Bakr Aḥmad b 'Alī al-Rāzī, born in 305 h. and died in Baghdād in 370 h. *Kaḥḥālāh*, 2:7; *Khalīfah*, p. 111.
- ⁴⁶ al-Jassās, Abū Bakr Aḥmad b 'Alī al-Rāzī, *Aḥkām al-Qur'ān*, (Istanbul, 1335 h.); While the Ḥanbalites opine that the permitted *ḍarūrah* is that by which one fears destruction if he abstains from eating. see *Mughnī*, *op. cit.*, 8:595.
- ⁴⁷ al-Bukhārī, 'Alā' al-Dīn 'Abd al-'Azīz b Aḥmad, *Kashf al-Asrār 'an uṣūl al-Bazdawī*, (Beirut, 1974), 4:151. He is Fakhr al-Islām Abū al-Ḥasan 'Alī b Muḥammad b al-Ḥusayn b 'Abd al-Karīm b Mūsā b 'Isā al-Bazdawī, died in 482 h. see *Khalīfah*, p. 112.
- ⁴⁸ He is Shams al-Dīn Abū 'Abd Allāh Muḥammad b 'Abd Allāh b Muḥammad, died in 772 h. at the age of 50. see *Shadharāt*, 6:224-5.
- ⁴⁹ al-Zarkashī, Muḥammad b 'Abd Allāh, *Qawā'id al-Zarkashī: al-Manthūr fī tartīb al-Qawā'id al-Fiqhiyyah*, Manuscript at Zāhiriyyah Library, Damascus, MSS (8543), ff. 137b.
- ⁵⁰ *Darūrah*, *op. cit.*, p. 67; *Juzay*, *op. cit.*, p. 173; al-Dardīr, Aḥmad b Muḥammad b Aḥmad, *Sharḥ al-Kabīr*, (Cairo, 1953), 2:115. Hereafter cited as *al-Kabīr*.
- ⁵¹ *Muhtāj*, *op. cit.*, 4:306.
- ⁵² *Darūrah*, *op. cit.*, pp. 67-8.
- ⁵³ *Ibid.*, pp. 73-157.
- ⁵⁴ al-Jawharī, Ismā'il b Ḥammād, *al-Ṣiḥāḥ: Tāj al-Lughah wa al-Ṣiḥāḥ al-'Arabiyyah*, ed. by Aḥmad 'Abd al-Ghafūr 'Aṭṭār, (Cairo, 1956), 3:1041, s.v. r. kh. ṣ.
- ⁵⁵ *Ibid.*, 2:750.
- ⁵⁶ *Humayd*, *op. cit.*, pp. 141-2; *Muwāfaqāt*, *op. cit.*, 1:205.
- ⁵⁷ *Humayd*, *op. cit.*, p. 143.
- ⁵⁸ *Ibid.*, pp. 144-5; *Muwāfaqāt*, *op. cit.*, 1:205.
- ⁵⁹ *Humayd*, *op. cit.*, p. 145; *Muwāfaqāt*, *op. cit.*, 1:205.
- ⁶⁰ *Humayd*, *op. cit.*, pp. 147-9.
- ⁶¹ *Ibid.*, p. 149.
- ⁶² *Al-Qur'ān*, 2:184.
- ⁶³ He is
- ⁶⁴ *Ashbah*, *op. cit.*, p. 91.
- ⁶⁵ al-Ba'li, Abū al-Ḥasan 'Alā' al-Dīn 'Alī b al-Luḥḥām, *al-Qawā'id wa al-Fawā'id al-Uṣūliyyah wa mā yata'allaq bihā min al-Aḥkām al-Far'īyyah*, ed. by Muḥammad Ḥamid al-Faqī, (n.d., 1956), pp. 118-9.
- ⁶⁶ al-Zarkashī, Badr al-Dīn Muḥammad b Bahādur b 'Abd Allāh, *al-Baḥr al-Muḥīṭ fī uṣūl al-Fiqh*, (Kuwait, 1992), 1:325. Hereafter cited as *al-Baḥr*.

- 67 *Humayd*, *op.cit.*, p. 149.
- 68 *Ibid.*, p. 82. It is also mentioned that the first six kinds of *takhfif* are according to 'Izz al-Dīn 'Abd al-Salām, while the seventh kind is according to al-'Alā'ī. (*Ibid.*).
- 69 *Al-Qur'ān*, 35:28.
- 70 see Chapter 5 note 258.
- 71 *Ibid.*
- 72 *Ibid.*
- 73 al-Fayyūmī, Ahmad b Muḥammad b 'Alī al-Muqrī, *al-Miṣbāh al-Munīr fī gharīb al-Sharḥ al-Kabīr*, (Beirut, 1398 h.), 1:189.
- 74 *al-Qāmūs*, *op.cit.*, 1: s.v. *h. w. ṭ.*
- 75 *Ibid.*; al-Kafwī, Ayyūb b Mūsā, *Kulliyāt Abī al-Baqā'*, (Cairo, 1253 h.), p. 20.
- 76 *Ibid.*
- 77 *Al-Ta'rifāt*, *op.cit.*, p. 10.
- 78 *Humayd*, *op.cit.*, p. 332.
- 79 *Ibid.*
- 80 *Al-Qur'ān*, 20:115.
- 81 *Al-Ta'rifāt*, *op.cit.*, p. 155.
- 82 *Kamālī*, *op.cit.*, p. 339.
- 83 He is Sayf al-Dīn Abū al-Ḥasan 'Alī b Abū 'Alī Muḥammad b Sālim al-Taghlabī, born in Āmud in 551 h. and died in Damascus in 631 h. He was at first a Ḥanbalite then moved to the *madhhab* of al-Shāfi'ī. see *Kaḥḥālāh*, 7:155; *Khalīfah*, p. 17.
- 84 *Al-Baḥr*, *op.cit.*, 1:325.
- 85 *Ibid.*
- 86 *Ibid.*
- 87 *Ibid.*
- 88 *Ibid.* He died around 490 h. see *Kaḥḥālāh*, 8:267-8.
- 89 al-Sarakhsī, Abū Bakr Muḥammad b Aḥmad b Abū Musahhil, *Uṣūl al-Sarakhsī*, ed. by Abū al-Wafā al-Afghānī, (Hyderabad, 1962), 1:117. Hereafter cited as *Sarakh*.
- 90 He is Badr al-Dīn Muḥammad b Bahadur b 'Abd Allāh al-Zarkashī, born in Cairo of Turkish stock in 745 h. and died there in 794 h. see *Kaḥḥālāh*, 9:121-2; *Durar*, 3:397-8; *Shadharāt*, 6:335; *A'lām*, 6:286.
- 91 *Al-Baḥr*, *op.cit.*, 1:330.
- 92 *Ibid.*
- 93 *Ibid.*
- 94 *Sarakh*, *op.cit.*, 1:119.
- 95 *Ibid.*
- 96 *Ibid.*, 1:120.
- 97 *Ibid.*
- 98 *Ibid.*, 1:121.
- 99 *Ibid.*
- 100 *Al-Baḥr*, *op.cit.*, 1:325.
- 101 *Ibid.*
- 102 *Ibid.*, 1:325-6
- 103 *Al-Qur'ān*, 2:185.
- 104 *Ibid.*, 8:66.
- 105 *Ibid.*, 4:28.
- 106 Cf. text p. 64 note 230.
- 107 *Al-Qur'ān*, 90:5.
- 108 *Ibid.*, 90:4.

109 It is also said that if a man is unable to feed sixty people he should fast a day. see al-Shawkānī, Muḥammad b 'Alī b Abū Muḥammad, *Nayl al-Awṭār min aḥādīth sayyid al-Akhyār: Sharḥ muntaqā al-Akḥbār*, (Beirut, 1973), 4:293. Hereafter cited as *Nayl*.

110 *Al-Qur'ān*, 65:6.

111 *Ibid.*, 2:280.

112 *Ibid.*, 30:54.

113 *Ibid.*, 16:75-6

114 *Ibid.*, 47:21.

115 *Ibid.*, 28:27.

116 *Ibid.*, 6:152, 7:42 and 23:62.

117 *Ashbah*, *op.cit.*, p. 92.

118 *Humayd*, *op.cit.*, pp. 152-3; *Muwāfaqāt*, *op.cit.*, 1:213-5.

119 *Al-Qur'ān*, 73:20.

120 *Ibid.*, 5:34.

121 *Ibid.*, 2:233.

122 *Ibid.*, 2:203.

123 *Ibid.*, 24:60.

124 *Ibid.*, 2:230.

125 *Ibid.*, 64:16.

126 see for instance, al-Ṭabarī, Abū Ja'far Muḥammad b Jarīr, *Jāmi' al-Bayān 'an ta'wīl al-Qur'ān*, 3rd. ed., (Cairo, 1968), 28:126-7.

127 He is Abū Naṣr 'Abd Allāh b 'Alī al-Sarrāj al-Ṭūsī, died in 374. see his *al-Luma'*, ed. by Dr. 'Abd al-Ḥalīm Maḥmūd and Ṭāhā 'Abd al-Bāqī Surūr, (Baghdād, 1960), pp. 12-3.

128 *Ibid.*, pp. 122-3.

129 *Al-Qur'ān*, 2:173.

130 *Ibid.*, 2:240.

131 *Ibid.*, 2:234.

132 *Ibid.*, 16:67.

133 *Ibid.*, 4:43.

134 *Ibid.*, 2:219.

135 *Ibid.*, 5:90-1.

136 *Al-Mizān*, 1:105; *al-Manāqib*, *op.cit.*, p. 68.

137 *Al-Mizān*, 1:105.

138 He is Shihāb al-Dīn Aḥmad b Muḥammad b 'Abd al-Ḥaqq al-Sanbātī, died in 950 *h*. *al-Kawākib*, *op.cit.*, 2:111-2.

139 *Al-Mizān*, 1:106.

140 *Ibid.*

141 *Ibid.*

142 *Ibid.*

143 *Ibid.*

144 *Ibid.*

145 *Dāwūd*, 4:598.

146 The text of the *ḥadīth* is: Rajā' b Abū Salamah said, "I heard 'Ubādah b Nusaiyy al-Kindī as saying that he was questioned about the position of a woman who died amongst a people without any *walī*? Then he said: '*adraktu aqwāman mā kānū yushaddidūna tashdidakum wa lā yas'alūna mas'ā'ilakum* [I came to know of people who did not apply your (standard of) *tashdīd*, nor did they ask your questions].'" see al-Dārimī, Abū Muḥammad 'Abd Allāh b 'Abd al-Rahmān b al-Faḍl b Bahrām, *Sunan al-Dārimī*, ed. by Dr. Muṣṭafā Dīb al-Baghā, (Damascus, 1991), 1:55.

147 *Al-Mizān*, 1:82.

148 *Ibid.*

149 *Ibid.*

150 *Ibid.*, 1:91.

- 151 *Ibid.*
- 152 *Ibid.*
- 153 *Al-Our'ān*, 2:144.
- 154 *Ibid.*, 2:180.
- 155 *Nayl*, *op.cit.*, 5:151.
- 156 *Mahāsin*, *op.cit.*, 3:427; *Humayd*, *op.cit.*, p. 92.
- 157 Ibn 'Abd al-Barr, Abū 'Umar Yūsuf, *Jāmi' bayān al-'Ilm wa faḍlihī*, ed. by 'Abd al-Raḥīm Ḥasan Maḥmūd, (Cairo, n.d.), p. 285.
- 158 He is Najm al-Dīn Abū al-Rabī' Sulaymān b 'Abd al-Qawī b 'Abd al-Karīm b Sa'īd al-Tūfī al-Ṣarṣarī al-Baghdādī, born around 670 h. and died in 726 h. *Shadharāt*, 6:39-40.
- 159 *Humayd*, *op.cit.*, p. 61.
- 160 *Al-Anām*, *op.cit.*, 2:15-6. See also *Ashbah*, *op.cit.*, p. 89; al-Qarāfī, Shihāb al-Dīn Abū al-'Abbās Aḥmad b Idrīs, (Cairo, 1346 h.), 1:120.
- 161 He is 'Alī al-Dīn Abū al-Ḥasan 'Alī b Muḥammad b Ibrāhīm b 'Umar b Khalīl al-Shayhī, born in Baghdād in 678 h. and died in 741 h. see *Kaḥḥālāh*, 7:177-8; *Shadharāt*, 6:131; *Khalīfah*, p. 1540.
- 162 He is Abū 'Abd Allāh Fakhr al-Dīn Muḥammad b Ḍiyā' al-Dīn 'Umar b al-Ḥasan b al-Ḥusayn b 'Alī al-Tamīmī, born in Ray in 543 h. and died in Herat in 606 h. see *Kaḥḥālāh*, 11:79-80; *Ibn al-Subkī*, 5:35; *Wafayāt*, 1:600; *Shadharāt*, 5:21-2; *Taghribirdī*, 6:197-8. see also text p. 369 note 112.
- 163 He is Abū 'Abd Allāh Muḥammad b Aḥmad b Abū Bakr b Farḥ al-Anṣārī, died in 671 h. see *Kaḥḥālāh*, 8:239-40; *Dībāj*, pp. 317-8; *Shadharāt*, 5:335.
- 164 The usage of the term laxity does not connote the full meaning of the term *takhfīf*. For laxity indicates laziness, whereas *takhfīf* does not indicate laziness. Thus it would be appropriate to use the term leniency instead.
- 165 *Masud*, *op.cit.*, p. 263; *Muwāfaqāt*, *op.cit.*, 2:167-8.
- 166 *Masud*, *op.cit.*, p. 262.
- 167 *Ibid.*, p. 260.
- 168 *Ibid.*
- 169 *Ibid.*
- 170 *Ibid.*
- 171 *Ibid.*
- 172 *Al-Mizān*, 1:116.
- 173 *Ibid.*, 1:118.
- 174 *Ibid.*, 1:119.
- 175 *Ibid.*, 1:121.
- 176 *Ibid.*, 1:122.
- 177 *Ibid.*, 1:123.
- 178 *Ibid.*
- 179 *Ibid.*, 1:125.
- 180 *Ibid.*, 1:130.
- 181 *Ibid.*, 1:133.
- 182 *Ibid.*, 1:137.
- 183 *Ibid.*, 1:144.
- 184 *Ibid.*, 1:145.
- 185 *Ibid.*
- 186 *Ibid.*, 1:146.
- 187 *Ibid.*, 1:150.
- 188 *Ibid.*
- 189 *Ibid.*, 1:156.
- 190 *Ibid.*, 1:157.
- 191 *Ibid.*, 1:164.

- 192 Ibid.
- 193 Ibid., 1:168.
- 194 Ibid., 1:171.
- 195 Ibid., 1:172.
- 196 Ibid., 1:200.
- 197 Ibid., 1:228.
- 198 Ibid., 2:29.
- 199 Ibid., 2:86.
- 200 Ibid., 2:63.
- 201 Ibid., 1:19; Muslim, p. 2:403.
- 202 Al-Mizān, 1:19.
- 203 Ibid., 1:19-20.
- 204 Ibid., 1:19; al-Qur'ān, 59:9.
- 205 Al-Mizān, 1:20.
- 206 Ibid.
- 207 Ibid.
- 208 Ibid.
- 209 Ibid., 2:16.
- 210 Ibid., 2:26.
- 211 Ibid., 2:46.
- 212 Ibid., 2:95.
- 213 Ibid., 1:115.
- 214 Ibid., 1:10.
- 215 Ibid.
- 216 Ibid.
- 217 Ibid.
- 218 Ibid.
- 219 Ibid.
- 220 Ibid., 1:13.
- 221 Ibid.
- 222 Ibid.
- 223 Ibid.
- 224 Ibid.
- 225 Ibid.
- 226 Ibid.
- 227 Ibid.
- 228 Ibid.
- 229 Ibid.
- 230 Ibid.
- 231 Ibid., 1:14.
- 232 Ibid.
- 233 Ibid.
- 234 Ibid.
- 235 Ibid.
- 236 Ibid.
- 237 Ibid.
- 238 Ibid.
- 239 Ibid.
- 240 Ibid.
- 241 Ibid.

- 242 Ibid.
243 Ibid.
244 Ibid.
245 Ibid.
246 Ibid.: Mājah, p. 532.
247 Al-Mizān, 1:14.
248 Ibid.
249 Ibid.
250 Ibid.
251 Ibid.
252 Ibid.
253 Ibid., 1:15.
254 Ibid.
255 Ibid.
256 Ibid.
257 Ibid.
258 Ibid., 1:17.
259 Ibid., 1:36.
260 Ibid.
261 Ibid.
262 Ibid.
263 Ibid.
264 Ibid.
265 Ibid., 1:37.
266 Ibid.
267 Ibid.
268 Ibid.
269 Ibid., 1:151.
270 Ibid.
271 Ibid.
272 Ibid., 1:168.
273 Ibid.
274 Ibid., 1:73.
275 Ibid.
276 Ibid.
277 Ibid., 1:39.
278 Ibid.
279 Ibid., 1:40.
280 Ibid.
281 Ibid.
282 Ibid.
283 Ibid.
284 Ibid.
285 Ibid., 1:139.
286 Ibid.
287 Ibid.
288 Ibid.
289 Ibid.
290 Ibid., 1:135.
291 Ibid.

- 292 Ibid.
293 Ibid.
294 Ibid.
295 Ibid., 2:190.
296 Ibid.
297 Ibid.
298 Ibid.

CONCLUSION

In the course of our analyses and discussions we have seen that al-Sha'rānī's claim to the originality of the theory of *takhfīf* and *tashdīd* is much more limited than he suggests. We have seen that the theory has its roots in the *Qur'ān*, *ḥadīth* and in the opinions of scholars preceding him. However, in the classification of the contradictory *aḥādīth* and opinions, there is no doubt that al-Sha'rānī's claim of originality has some truth. No one, before him, had attempted to classify them under the categories ranging from *mukhaffaf* to *mushaddad*. His attempt to apply such a classification to the entire chapters of *fiqh* is unique. Again the way in which he has tried to bring about a reconciliation between otherwise contradictory opinions of the *madhāhib*, through putting forward *ṣūfī* explanations coupled with more ethical suggestions has made his balance, an unusual and a novel one. Even though scholars like al-Ghazzālī, Abū Ṭālib al-Makkī and others have attempted to explain the spiritual dimension of the various aspects of the *sharī'ah*, they did not attempt to classify their opinions into categories ranging from *mukhaffaf* to *mushaddad*, on the basis of the divisions within the *mukallafs*, which again is based on their strength and weakness in respect of *īmān*, *islām* and *iḥsān*. It is here al-Sha'rānī's *al-Mīzān* stands distinct from other works of *ikhtilāf*.

The main argument of al-Sha'rānī is that if a *mukallaf* was to follow a *mujtahid* who is also a *ṣūfī*, he will certainly make him reach the spring of the *sharī'ah* from where the *a'immah* have deduced their *madhāhib*. To achieve this the *mukallaf* has to undergo strenuous spiritual exercises under the guidance of an experienced *shaykh*. At that time that *mukallaf* or *muqallid* will be on a par with the *a'immah*, since there is no difference between the amounts of water which both the *mujtahid* and the *muqallid* scoop from the spring. In this argument there is a slight problem. That is, al-Sha'rānī is equating the learned with the unlearned, just because the latter had undergone spiritual training, meaning that he has learnt the secrets of the *sharī'ah* through *kashf*. What one does not understand is whether the *kashf* of a learned scholar who has undergone the spiritual training and that of the unlearned, is the same or not. If it is the same, then what is the point of studying *fiqh*? Since it is possible to achieve this goal by spiritual training, there would seem to be no need for any one to study *fiqh* as a field of study. Further, one is not sure about the nature of the *kashf* which he refers to. That is, does it vary according to the status of the *mukallaf* or is it the same for every one. If it varies according to their knowledge and understanding, then the amount of water the *mujtahid* scoops from the spring of *sharī'ah* will not be the same as the amount scooped by the *muqallid*, even though the latter scoops the water from the same spring.

Although al-Sha'rānī did not openly denounce the notion of *taqlīd* of the *madhāhib* or the *a'immah*, one can nevertheless feel in the course of reading the book that this was his ultimate intention. However, he encourages a degree of *taqlīd* for those who have not

experienced the balance. This tunes in well with his stand on *ijtihād*. Nowhere has he said that the door of *ijtihād* is closed. To him *ijtihād* continues to be actively employed by the *mujtahids* till the day of resurrection. For none of their *ijtihād* will be considered to have departed from the *sharī'ah*, since the opinions of the *mujtahids* have their origins in the *sharā'i'* of the preceding prophets. However, he has set a safety net for himself by emphasising the necessity of the *mujtahids* being men of *kashf*, thereby setting a limit on those who are qualified to engage in *ijtihād* and *fatawā*. That is why he stresses the teacher-student relationship, since the chain connects the student-*mujtahid* to the Prophet through his teacher. Further he encourages the *intermadhāhib* conversion for those who are faced with difficulty in following a particular *madhhab*. Thus he has allowed a degree of flexibility in *Islāmic* Law. Here he emphasises the role of the *a'immaḥ* and by extension the *mujtahids* as experienced physicians who prescribe medicines according to the need of the patients (i.e.: the *mukallaḥs* or *muqallids*).

His attitude towards *ḥadīth* is an interesting one. For he seems to accept all *aḥādīth* irrespective of their strengths and weaknesses. This might not be shared by those who set severe restrictions in the form of conditions for the acceptability of a particular *ḥadīth*. This might be the very reason why he did not include *madhāhib* other than the four *sunni madhāhib* which are criticised in respect of the *aḥādīth* narrated by certain individuals. To al-Sha'rānī there is no difference between the *ṣaḥābah*, since they have been compared by the Prophet to the stars, as such whoever among them is followed is rightly guided. However, the existence of any difference will be due to their proximity to the

Messenger and to *Islām*. This difference, however, does not necessitate that the *ḥadīth* narrated by a *ṣaḥābī* closer to the Prophet is more valid than a *ḥadīth* narrated by a *ṣaḥābī* who is not, since the Prophet has spoken to his *ṣaḥābah* according to their level of understanding and their position in respect of *īmān*, *islām* and *iḥsān*. Thus, the criterion for categorising the *aḥādīth* should be on the basis of *takhfīf* and *tashdīd* which is applied according to the strength and weakness of the *mukallafs*. The same is the case with all deductions of the *mujtahids*, which according to al-Sha'rānī do not depart from the ambit of the *sharī'ah*. Therefore, he warns that judgement should not be passed on people in the same way (*lā taḥkum 'alā al-nās bi al-ḥukm al-wāḥid*).

Al-Sha'rānī has made an interesting and thought provoking attempt to bring about a reconciliation between the four *madhāhib*. This contribution to the problem has been presented in an original manner. However, despite his clever introduction of the theory of *takhfīf* and *tashdīd* as the reason for the differences in the different *madhāhib*, at heart he is a *ṣūfī* and therefore the real reconciliation is brought about by those intangible ideas based on *kashf* which are very difficult to explain.

APPENDICES

Literature Review

Sources for al-Sha'rānī's life:

The works on al-Sha'rānī are many. The principal sources for al-Sha'rānī's life are of two kinds:

- (a) Autobiography
- (b) Biography written by others.

(a) Autobiography:

Al-Sha'rānī, being a great admirer of Jalāl al-Dīn al-Suyūṭī, has also composed an autobiography like the latter bearing almost the same title. Al-Suyūṭī named his autobiography as: "*al-Taḥadduth bi ni'mat Allāh*¹ - Extolling the favour of God", while al-Sha'rānī called his autobiography as: "*Laṭā'if al-Minan wa al-Akhlāq fī wujūb al-Taḥadduth bi ni'mat Allāh 'alā al-Itlāq*² - literally translated as "the kind graces and fine qualities, concerning the absolute obligation to speak of God's kindness (or favour)"³. This work was completed around 960 A.H.⁴ And in this book al-Sha'rānī "undertakes the task of thanking God for the favour He has bestowed upon him, for the

miracles he has experienced, and for the fine qualities with which he was endowed by God's grace"⁵.

One might argue about the motivation in writing down one's own biography. Some might even say that it is merely an act of self-aggrandisement or an unmitigated self-praise. But this is not the case with al-Sha'rānī. For, he being an adherent of the Shādhilī spiritual order which is built on the "tradition of *al-shukr bi al-ni'mah*, the thanking of God, for His kindness by making public one's own merits and bounties"⁶ thereby extolling the favour which God, the Lofty, has bestowed upon him, al-Sha'rānī followed the paths of his spiritual predecessors in composing his own biography⁷.

His biography is not just an account of his experiences and achievements, it portrays the socio-politico-religious situation of his period along with a detailed analysis of the customs of the people. Thus, it is more than a mere biographical work. It could well be called a "first-hand" account of the events that took place during his life time. Apart from the *Laṭā'if al-Minan*, there are other works of al-Sha'rānī in which one can get additional information on his biography. These are:

al-Ṭabaqāt al-Kubrā

al-Ṭabaqāt al-Ṣuḡhrā

al-Baḥr al-Mawrūd

al-Akhlāq al-Matbūliyah

and *Kashf al-Ghummah*

(b) Biography written by others

The most important of these is the biographical work written by his direct student, 'Abd al-Ra'ūf al-Munāwī⁸, entitled: *al-Kawākib al-Durriyah fī tarājim al-Sādah al-Ṣūfiyah*.⁹ In this, the author draws copious summaries from al-Sha'rānī's *al-Ṭabaqāt*.¹⁰ He also includes an incomplete list of al-Sha'rānī's works. In *al-Kawākib*, al-Munāwī also provides additional information on the social and religious atmosphere in which al-Sha'rānī lived and the decade following his death.

The other works which followed later are, in fact, repetitive in their account of al-Sha'rānī and his time by drawing extensively from al-Munāwī. These include the works like:

(1) Ibn 'Imād, *Shadharāt al-Dhahab*, (Beirut, 1966), vol. III, pp. 372-4.

(2) al-Ghazzī, Najm al-Dīn, *al-Kawākib al-Sā'irah bi a'yān al-Mi'āh al-Āshirah*, (ed.) J.S. Jabbur, (Harrisa, 1945-49).

(3) al-Nabhānī, Yūsuf, *Jāmi' karāmāt al-Awliyā'*, (Cairo, 1926), vol. II, pp. 274-82.

Of these, in the work of al-Ghazzī, information on al-Sha'rānī is scattered throughout the three volumes. This information is confined to family origin, teachers and al-Sha'rānī's fields of expertise. He calls al-Sha'rānī Shaykh 'Abd al-Wahhāb al-Sha'rāwī.

The other significant work on the biography of al-Sha'rānī, was written by al-Malījī, who composed it about 136 years after the death of al-Sha'rānī, at the request of Ḥasan Pasha, the then Ottoman viceroy

of Egypt. In this work, the author gives a detailed account of al-Sha'rānī and his manifold *karāmāt*. It consists of:

- Forword by *al-Sayyid* Ṣafar al-Sha'rānī, (see the following diagramm) a descendant of 'Abd al-Wahhāb al-Sha'rānī.

- Author's Introduction
- Chapter One on the *manāqib*¹¹ of al-Sha'rānī's ancestors
- Chapter Two on the *manāqib* of 'Abd al-Wahhāb al-Sha'rānī,

which includes:

- Time and Place of his birth and his place.
- His early life and upbringing.
- His migration and movements.
- His search for knowledge and his aptitude.
- His study under the teachers and his zeal.
- His study of many books on *shara'* and its instrumental sciences.
- His extensive reading in it and his research on them.
- His teachers in *shara'* and his connection with them and his chain.
- His teachers in *taṣawwuf* and his spiritual path.
- His works and writings.
- His understanding of the *sharī'ah* knowledge.
- His outstanding traits and his miracles.
- The place of his neighbourhood and his stay therein.
- The reason for establishing his *madrasah*.
- The reason for establishing the training.
- The time of his illness and its manner.
- The time of his movement to his place of miracle.

- The view and the gathering in his funeral.
- His age and length of his life.

- Chapter Three on the *manāqib* of his descendants.

The other biographical works on al-Sha'rānī written after *al-Manāqib* are not that extensive. These include:

(1) Mubārak, 'Alī Pasha, *al-Khiṭaṭ al-Tawfīqiyah al-Jadīdah li Miṣr al-Qāhirah*, (Cairo, 1879-89), vol. 13-14, pp. 109-13.

(2) al-Ṭawīl, Tawfīq, *al-Sha'rānī imām al-Taṣawwuf fī 'aṣrihī*, (Cairo, 1945), and (3) *al-Taṣawwuf fī Miṣr ibbān al-'Aṣr al-'Uthmānī*, (Cairo, 1946).

(4) Surūr, Tāha 'Abd al-Bāqī, *al-Sha'rānī wa al-Taṣawwuf al-Islāmī*, (Cairo, 1969).

(5) al-'Aẓm, Jamīl Bey, *'Uqūd al-Jawhar*, (Beirut, 1908), Vol I, pp. 317-24.

(6) al-Katānī, Muḥammad 'Abd al-Ḥayy, *Fihris al-Fahāris*, (Fez, 1928-29), vol. III, pp. 405-6.

(7) al-Ziriklī, Khayr al-Dīn, *al-A'lām*, (Beirut, n.d.).

(8) *Fihris al-Khizānah al-Taymūriyah*, (Cairo, 1948), 3:164.

(9) al-Baghdādī, *Hadīyat al-'Ārifīn*.

(10) al-Kohan, Ḥasan, *Jāmi' al-Karāmāt*.

(11) al-'Ash, Yūsuf, *Fihris makhtūtāt al-Zāhirīyah*.

(12) Sayyid, Fu'ād, *Fihris al-Makhtūtāt al-Muṣawwarah*.

(13) Zaydān, *Tārīkh ādāb al-Lughah al-'Arabīyah*.

(14) 'Awwād, *al-Makhtūtāt al-Tārīkhīyah*.

(15) al-Badī', Luṭfī 'Abd, *Fihris al-Makhtūtāt al-Muṣawwarah*.

(16) al-Baghdādī, Ismā'il Pāshā b Muḥammad Amīn b Mīr Salīm al-Bābānī, *Idāḥ al-Maknūn fī al-Dhayl 'alā kashf al-Zunūn 'an asāmī al-Kutub wa al-Funūn*, (Istanbul, 1954).

Sources for al-Sha'rānī's works:

Al-Sha'rānī is said to have written many works. But only a few have survived. Some say that al-Sha'rānī has more than three hundred works to his credit.¹² In *Kitāb al-Manāqib al-Kubrā*, however, al-Malījī is able to trace the number of works written by al-Sha'rānī to around one hundred and ten works.¹³ But Brockelmann attributes sixty-seven works to him,¹⁴ while 'Alī Mubārak mentions that he saw more than seventy works of al-Sha'rānī.¹⁵

Al-Malījī's account is based on his readings of the works of al-Sha'rānī. After giving a list of works he managed to study or saw, he states:

This is (but) a small number (*sharmadhah qalīlah*) from his compositions. These are the totality of books we have studied in respect of his books or which we saw. And as for the remaining ones, we could not study them, for most of his books have spread far and wide to the countries (in) the Mediterranean (al-Rūm), the countries of the West and the East, Makkah, Madīnah, Sind (i.e.: the Present day Pakistan), Hind (i.e.: India), the non-Arabs and (to) all corners of the earth. And these compositions (*mu'allafāt*) are due to the position of honour and leadership to him, may God be pleased with him.¹⁶

Thus it becomes increasingly difficult to give the exact number of works al-Sha'rānī wrote. Moreover, this difficulty is accentuated by the repetition of one and the same title used for works on more than one field.¹⁷ Further, as K.V. Johnson has remarked:

It is probable that careful examination will reveal that several of the works attributed to him are in fact portions extracted from other books. Such confusion could well result from the mystic's habit of giving similar titles to several works.¹⁸

As mentioned earlier the significant works written on al-Sha'rānī are that of al-Malījī's *al-Manāqib al-Kubrā* and that of al-Munāwī.

And in the following pages attempt has been made to classify al-Sha'rānī's works, both the manuscripts and the published editions, according to subjects and their distribution in different countries in which they are catalogued. The section on classification of al-Sha'rānī's works according to subjects is mainly based on the list of his works as mentioned by al-Malījī in his *al-Manāqib al-Kubrā*, while the section on distribution of his works in various countries is based on the list prepared by Carl Brocklemann.¹⁹ Where additional material has been discovered, it will be pointed out in the endnotes.

Classification of al-Sha‘rani’s Works according to Subject

Titles	Subjects											
	Fiqh	Usul	Tasawwuf	Biography	Autobiography	Dogmatics	Hadith	Ethics	Fatawa	Grammar & Poetry	Medicine	Dream interpretation
								*				
			*					*				
			*					*				
		*										
						*						
												*

- 1 K. *adab al-Murīd al-Sādiq ma'a man yurīd al-Khālīq*
- 2 K. *akhlāq al-Matbūliyah al-Mufādah min al-Ḥaḍrat al-Muḥammadiyah* ²⁰
- 3 K. *al-Ajwibah al-Marḍiyah ‘an a’immah al-Fuqahā’ wa al-Ṣūfiyah* ²¹
- 4 K. *al-Ajwibah ‘an al-Anbiyā’ wa al-Mursalīn wa al-Ṣaḥābah wa al-Tābi‘īn*
- 5 K. *al-Akhlāq al-Ṣuḡhrā*
- 6 K. *‘alāmāt al-Khidhlān ‘alā man lam ya‘mal bi al-Qur’ān* ²²
- 7 K. *al-Anwār al-Qudsiyah fī bayān al-‘Aqā’id al-Ṣūfiyah*
- 8 K. *al-Anwār al-Qudsiyah fī bayān qawā’id al-Ṣūfiyah*

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al-Mujtahidīn wa muqallidihim ilā al-Sharīʿah al-Muḥammad-
iyyah (al-Mīzān al-Kubrā) ⁴²

46 K. al-Mufākhīr wa al-Maʾāthir fī bayān al-ʿUlamāʾ al-Qarn
al-ʿĀshir ⁴³

47 K. al-Muqaddimah al-Nahwiyyah fī ʿilm al-ʿArabiyyah ⁴⁴

48 K. al-Murīd al-Ṣādiq maʿa farīd al-Khālīq

49 K. al-Nafahāt al-Qudsiyyah fī bayān qawāʿid al-Ṣūfiyyah
(Qawāʿid al-Wustā)

50 K. al-Nūr al-Fāriq bayn al-Murīd al-Ṣādiq wa ghayr
al-Ṣādiq ⁴⁵

51 K. al-Nūr al-Zāhir fī al-Ajwibah ʿan al-Akābir wa al-
Aṣāghir ⁴⁶

52 K. al-Qawāʿid al-Kashfiyyah al-Muwaddihah li maʿāni
al-Ṣifāt al-Ilāhiyyah ⁴⁷

53 K. al-Qawāʿid al-Saniyyah fī tawhīd ahl al-Khuṣūsiyyah ⁴⁸

54 K. al-Qawl al-Mubīn fī dalīl labas al-Khirqah wa al-
Talaqqīn ⁴⁹

55 K. al-Qawl al-Mubīn fī bayān adab al-Ṭalībīn ⁵⁰

56 K. al-Qawl al-Mubīn fī radd ʿan Muḥyi al-Dīn ⁵¹

57 K. al-Sirr al-Marqūm fī mā ukhtuṣṣa bihi ahl Allāh min
al-Akhlāq wa al-ʿUlūm ⁵²

58 K. al-Sirr al-Maṣīr wa tazawwud li yawm al-Maṣīr

59 K. al-Ṭahīrah al-Jism wa al-Jinān min sūʾ al-Ẓann bi Allāh
wa al-Malāʾikah wa al-Jānn

60 K. al-Ṭarāz al-Abḥaj ʿalā khutbat al-Manhaj ⁵³

- 62 K. *al-Yawāqit wa al-Jawāhir fī 'aqa'id al-Akābir* ⁵⁴
 63 K. *bahjah al-Absār wa al-Fuhūm fī mā tamaiyiza bihi ahl Allāh min al-Akhlāq wa al-'Ulūm*
 64 K. *bahjah al-Nuṣūs wa al-Ahdāq fī mā tamaiyiza bihi al-Qawm min al-Ādāb wa al-Akhlāq*
 65 K. *dhayl al-Ṭabaqāt al-Wustā khilāfan li man ḡanna annahu dhayl al-Ṭabaqāt al-Kubrā*
 66 *Dīwān al-Mawākib al-Rabbāniyyah* ⁵⁵
 67 K. *durar al-Ghawwāṣ fī fatāwā al-Khawwāṣ* ⁵⁶
 68 K. *farā'id al-Qalā'id fī 'ilm al-'Aqā'id* ⁵⁷
 69 *Fatāwā al-Sha'rāni* ⁵⁸
 70 K. *fath al-Wahhāb fī faḍā'il al-Āl wa al-Ashāb* ⁵⁹
 71 *Risālah fī bayān jamā'atan sammū anfusahum bi al-Ṣūfiyah wa id'ū al-Wilāyata kadhiba.....* ⁶⁰
 72 K. *fī bayān sanadihi fī qirā'at al-Kutub min tariq al-Hāfiz al-Jalāl al-Suyūtī*
 73 K. *fī dhamm al-Ra'y wa tabrī' al-'A'imma al-Arba'ah al-Mujtahidīn minhu* ⁶¹
 74 K. *fī rub' al-'Ibādāt 'alā madhhab al-Ṣūfiyah*
 75 K. *fī tafsīr al-Ahlām*
 76 K. *ḥadd al-Hisām 'alā man awjaba al-'Ilm bi al-Ilhām*
 77 K. *hādī al-Hā'irīn ilā rusūm akhlāq al-'Ārifīn* ⁶²
 78 K. *irshād al-Mughaffalīn min al-Fuqahā' wa al-Fuqarā' ilā bayān ma'rifat ṣuḥbat al-Umarā'* ⁶³
 79 K. *irshād al-Ṭālibīn ilā marātib al-'Ulamā' al-'Āmilīn*
 80 K. *irshād al-Ṭālibīn ilā rusūm tariq al-'Ārifīn*

- 82 K. *irshād al-Tālibīn ilā ‘Ulūm al-‘Arifīn* ⁶⁴
- 83 K. *kashf al-Ghummaḥ ‘an jamī‘ al-Ummaḥ* ⁶⁵
- 84 K. *kashf al-Ḥijāb wa al-Rān ‘an wajh as’ilah al-Jānn* ⁶⁶
- 85 K. *laṭā’if al-Minan wa al-Akhlāq fī wujūb al-Taḥadduth bi ni‘mat Allāh ‘alā al-Itlāq* ⁶⁷
- 86 K. *lawāqih al-Anwār al-Qudsiyyah fī manāqib al-‘Ulamā’ wa al-Sūfiyyah (Ṭabaqāt al-Wustā)* ⁶⁸
- 87 K. *lawāqih al-Anwār al-Qudsiyyah (Mukhtaṣar al-Futūḥāt al-Makkiyyah)*
- 88 K. *lawāqih al-Anwār fī ṭabaqāt al-Akhyār (Ṭabaqāt al-Kubrā)* ⁶⁹
- 89 K. *lubāb al-I‘rāb al-Mānī‘ min al-Lahn fī al-Sunnah wa al-Kitāb*
- 90 K. *madārij al-Sālikīn ilā rusūm ṭarīq al-‘Arifīn* ⁷⁰
- 91 K. *maḥam al-Akbād fī mawārid al-Ijtihād*
- 92 K. *man‘ al-Mawānī‘* ⁷¹
- 93 K. *manhaj al-Ṣidq wa al-Taḥqīq fī taflīs ghālib mudda‘ī al-Ṭarīq*
- 94 K. *maṣḥāriq al-Anwār al-Qudsiyyah fī bayān al-‘Uhūd al-Muḥammadiyyah* ⁷²
- 95 K. *mawāzin al-Rijāl al-Qāṣirīn* ⁷³
- 96 K. *miṭāḥ al-Sirr al-Qudsi fī tafsīr āyat al-Kursī*
- 97 K. *minah al-Minnah fī al-Talabbus bi al-Sunnah* ⁷⁴
- 98 K. *minḥāj al-Wuṣūl ilā ‘ilm al-Uṣūl*
- 99 K. *mīzān al-‘Aqā’id al-Sha‘rāniyyah al-Muḥayyadah bi al-Kitāb wa al-Sunnah al-Muḥammadiyyah* ⁷⁵
- 100 K. *muḥam al-Akbād fī mawād al-Jihād*

124 K. taṭahhur ahl al-Ziwwāyah wa al-Ruwwāq min khabā'ith
al-Ṭiwwāya wa al-Akhlāq

125 K. taṭhīr ahl al-Ziwwāya min khabā'ith al-Ṭiwwāya

126 K. waṣāya al-'Ārifīn al-Muqtabiṣah min ḥaḍrat rabb
al-'Ālamīn

127 K. waṣāya al-'Ārifīn li 'awwām al-Tujjār wa al-Fuqarā'
wa al-Mu'minīn

128 K. waṣāya al-Ikhwān fī mā yajib 'alayhim isti'mālihi fī ḥādhā
al-Zamān

Manuscripts	Afghanistan	Austria	Britain	Egypt	France	Germany	Holland	India	Indonesia	Iran	Iraq	Italy	Morocco	Nigeria	Spain	Syria	Tunisia	Turkey	USA	Others
1 <i>al-Durar al-Manthūrah fī bayān zubad al-‘Ulūm al-Mashhūrah</i> ⁹¹			*	*		*		*		*	*	*						*		*
2 <i>al-Yawāqūt wa al-Jawāhir fī bayān ‘aqā’id al-Akābir</i> ⁹²	*	*	*	*	*	*		*		*	*	*						*		
3 <i>Farā’id al-Qulā’id fī ‘ilm al-‘Aqā’id</i> ⁹³																				
4 <i>Kashf al-Hijāb wa al-Rān an wajh as ‘ilah al-Jānn</i> ⁹⁴			*	*	*			*			*							*		
5 <i>al-Fath al-Mubīn fī jumlah min asrār al-Dīn</i> ⁹⁵			*	*							*									
6 <i>Irshād al-Ṭālibīn ilā marātib ‘ulamā’ al-‘Āmilīn</i> ⁹⁶			*	*				*				*						*		
7 <i>al-Mīzān al-Kubrā</i> ⁹⁷	*	*	*	*	*			*	*											
8 <i>al-Mīzān al-Ṣuḡhrā</i> ⁹⁸				*	*			*										*		
9 <i>Lawāqih al-Anwār al-Qudsiyah fī bayān qawā’id al-Ṣūfiyah</i> ⁹⁹				*					*											
10 <i>Sawā’i’ al-Anwār al-Qudsiyah fī mā ṣadarat bihī al-Futūḥāt al-Makkiyyah</i> ¹⁰⁰			*	*																

- 11 *al-Qawl al-Mubīn fī al-Radd ‘an Muḥyi al-Dīn* 101
- 12 *al-Nafahāt al-Qudsiyah fī bayān qawā'id al-Ṣūfiyyah* 102
- 13 *al-Kibrīt al-Aḥmar fī bayān ‘ulūm al-Shaykh al-Akbar* 103
- 14 *Tanbīh al-Mughtarrin fī qarn al-‘Āshir ‘alā mā khālafū fīhi salafuhum al-Tāhir* 104
- 15 *al-Anwār al-Qudsiyah fī bayān ādāb al-‘Ubūdiyyah* 105
- 16 *Lawāqih al-Anwār al-Qudsiyah fī bayān al-‘Uhūd al-Muḥammadiyyah (wa yusammā ayḍan) Mashhāriq al-Anwār al-Qudsiyah* 106
- 17 *Madārij al-Sālikīn ilā rusūm tariq al-‘Ārifīn* 107
- 18 *al-Baḥr al-Mawrūd fī al-Mawāthiq wa al-‘Uhūd* 108
- 19 *Mawāzin al-Qāṣirīn min al-Rijāl* 109
- 20 *Mukhtaṣar tadhkirat al-Qurtubī* 110
- 21 *Irshād al-Mughaffalīn min al-Fuqahā' wa al-Fuqarā' ilā bayān ma 'rifat ṣūbahat al-‘Umarā'* 111
- 22 *Kashf al-Ghumma ‘an jamī' al-Ummah* 112
- 23 *al-Durar al-Ghawwās ‘alā fatāwā Sayyidī ‘Alī al-Khawwās* 113
- 24 *al-Jawhar wa al-Durar* 114
- 25 *al-Murīd al-Ṣādiq ma ‘a farīd al-Khāliq* 115
- 26 *al-Badr al-Munīr fī gharīb ahādīth al-Bashīr* 116

- 27 *al-Ajwibah al-Mardiyyah* 'an a'imma al-Fuqahā'
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- 28 *Bahjat al-Nuṣus wa al-Aḥdāq fī mā tamaiyiza bihi al-Qawm min al-Ādāb wa al-Akhlāq* 118
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- 31 *al-Jawhar al-Maṣūn wa al-Sirr al-Marqūm fī mā tuntiḥu al-Khalwah min al-Asrār wa al-'Ulūm* 121
- 32 *al-Qawaid al-Kashfiyyah al-Muwaddiḥah li ma'āni al-Ṣifāt al-Ilāhiyyah* 122
- 33 *al-Jawhar al-Maṣnūn fī 'ilm kitāb Allāh al-Maknūn* 123
- 34 *al-Sirr al-Maṣīr wa al-Tazawwud li yawm al-Maṣīr* 124
- 35 *Minah al-Minnah fī al-Talabbus bi al-Sunnah* 125
- 36 *Rad' al-Fuqarā'* 'an da'wah al-Wilāyah al-Kubrā 126
- 37 *al-Durar al-Saniyyah* 'alā al-Waṣiyyah al-Matbūliyyah al-Minah al-Saniyyah 'alā al-Waṣiyyah al-Matbūliyyah 127
- 38 *Dīwān 'Abd al-Wahhāb al-Sha'rānī* 128
- 39 *al-Akhlāq al-Matbūliyyah* 129
- 40 *Lawāqih al-Anwār al-Qudsiyyah fī manāqib al-'Ulamā'*
wa al-Ṣūfiyyah 130

- 41 *Lawāqih al-Anwār fī ṭabaqāt al-Sādat al-Akhyār*
(wa yusammā ayḍan) *al-Ṭabaqāt al-Kubrā* ¹³¹
- 42 *Laṭā'if al-Minan wa al-Akhlāq fī bayān wujūb*
al-Taḥadduth bi ni'mat Allāh 'alā al-Itlāq ¹³²
- 43 *Lubbāb al-I'rāb al-Mānī' min al-Lahn fī al-Sunnah*
wa al-Kitāb ¹³³
- 44 *Minah al-Minnah fī al-Tamassuki bi al-Sharī'ah wa al-*
Sunnah ¹³⁴
- 45 *Mukhtaṣar tadhkirat al-Imām al-Suwaydī fī al-Ṭibb* ¹³⁵
- 46 *al-Manhaj al-Mubīn fī bayān adillat madhāhib al-*
Mujtahidīn ¹³⁶
- 47 *Maqāṣid al-'Ābidīn* ¹³⁷
- 48 *al-Jawāhir wa al-Durar* ¹³⁸
- 49 *Risālah fī bayān jamā'atan sammū anfusahum bi al-*
Ṣūfiyah wa id'ū al-Wilāyata kadhibā ¹³⁹

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-reviews al-Sha'rānī as a source of social history for his time.

....., *Society and Religion in Early Ottoman Egypt: Studies in the writings of 'Abd al-Wahhāb al-Sha'rānī*, (New Jersey, 1982).

....., *Egyptian Society under Ottoman Rule, 1517-1798*, (London, 1992).

Yo'er, Bat, *The Dhimmi: Jews and Christians Under Islām*, (New Jersey, 1985), pp. 200-1.

- quotes al-Sha'rānī's *Baḥr al-Mawrūd* in praise of the *dhimmis*. [note that this is the English rendition of the French book: *Le dhimmi: Profit de l'opprime en Orient et en Afrique du Nord depuis la Conquête arabe* by Editions Anthropos, (Paris, 1980)].

Zakariyyā, Mawlānā Muhammad, "*Manāqib al-Imām al-Bukhārī wa maiyizāt Ṣaḥīḥ al-Bukhārī*", (Peshawar, n.d.), p. 43.

-quotes al-Sha'rānī's *al-Mizān*.

al-Zuhaylī, Dr. Wahbah, *Nazriyat al-Ḍarūrah al-Shar'iyah*, 4th.
edition, (Beirut, 1985), pp. 149 and 323.
- quotes *al-Mizān*.

Mizān as a work of Ikhtilāf

It is very difficult to designate some *fiqh* works as works of *ikhtilāf* and others as non-*ikhtilāf* works. In fact nearly all the works of *fiqh* have incorporated differences of opinion. These differences of opinion could be:

(1) the opinion of the *imām* himself. For example the earlier and the later opinions of al-Shāfi'ī.

(2) the opinions of the *imām* and his disciples, like that of *imām* Abū Ḥanīfah and his disciples.¹⁴⁰

(3) the opinions of the *imāms* of other *madhāhib*.

Thus, there is some difficulty in classifying *fiqh* works into *ikhtilāf* and non-*ikhtilāf* works. In fact in most of the *Fiqhī* books one could frequently read words like *khilāfan li* or *ma'a qawl*. These clearly indicate that the one about whom these words are used holds or held opinions different from one who has been quoted. But not all the *fiqh* works give the causes for such differences. Many works merely list down the issues wherein such differences occur without giving the reasons behind such differences. Such differences of opinion in legal issues grew enormously as time passed and separate treatises on the subject came into existence. Thus, it became a separate but related science of *fiqh*.

Early treatises on *Ikhtilāf* have been preserved in the works of *imām* Mālik, *imām* Abū Yūsuf, *imām* Muḥammad and *imām* al-Shāfi'ī. In Mālik's *al-Muwattā'* the differences of the opinion are concerned with the *ta'āmul ahl al-Madīnah* (the customary usage of the people of Madīnah). In *al-Radd 'alā siyar al-Awzā'ī*, Abū Yūsuf refers to an

unknown work of a Syrian scholar who records his criticism of an unknown work entitled *Kitāb al-Siyar* purported to have been written by Abū Ḥanīfah. Abū Yūsuf had composed his treatises *al-Ikhtilāf bayna Abī Ḥanīfah wa Ibn Abī Laylā*. This work has been edited by Abū al-Wafā Afghānī.¹⁴¹

And Muḥammad al-Shaybānī has few works on *ikhtilāf*. His *al-Siyar al-Kabīr*,¹⁴² was written against al-Awzā'ī. He also wrote *al-Hujaj al-Mubīnah* or *al-Hujjat fī ikhtilāf ahl al-Kūfa wa ahl al-Madīnah*.¹⁴³

In al-Shāfi'ī's *Kitāb al-Umm* the following chapters are preserved:

- a) *Ikhtilāf Abī Ḥanīfah wa Ibn Abī Laylā*¹⁴⁴
- b) *Ikhtilāf Abī Ḥanīfah wa al-Awzā'ī*¹⁴⁵
- c) *Ikhtilāf al-Shāfi'ī ma'a Muḥammad Ibn al-Ḥasan*¹⁴⁶
- d) *Ikhtilāf al-Shāfi'ī ma'a Mālīk*¹⁴⁷

And Ibn Nadīm¹⁴⁸ has attributed a number of works entitled *Ikhtilāf al-Fuqahā'* to the following authors:

- a) al-Dāwūdī, Abū Ishāq Ibrāhīm b Jābir.¹⁴⁹ - *Kitāb al-Ikhtilāf*.¹⁵⁰
- b) al-Marwazī, Aḥmad b Naṣr.¹⁵¹ - *Kitāb Ikhtilāf al-Fuqahā' al-Kabīr* and *Kitāb Ikhtilāf al-Fuqahā' al-Ṣaghīr*.¹⁵²
- c) al-Shāfi'ī, Abū 'Abd al-Raḥmān.¹⁵³ - *Kitāb al-Ijmā' wa al-Ikhtilāf*.¹⁵⁴
- d) al-Ṭabarī, Abū Ja'far Muḥammad b Jarīr. - *Ikhtilāf al-Fuqahā'*¹⁵⁵ and *Tabṣīr ulī al-Nuḥā fī ma'ālim al-Hudā fī ikhtilāf al-Fuqahā'*.¹⁵⁶

e) Ibn al-Sājī, Abū Yaḥyā Zakariyyā b Yaḥyā b Muḥammad.¹⁵⁷ *Kitāb al-Ikhtilāf fī al-Fiqh*.¹⁵⁸

Apart from al-Nadīm's record of books in this field, F. Kern has mentioned more works in this subject in his introduction to al-Ṭabarī's *Ikhtilāf al-Fuqahā'*, while further addition to his list is from Sayyid Fu'ād's *Fihris al-Makhtūṭāt al-Musawwarah bi jāmi'at al-Duwal al-'Arabiyyah*,¹⁵⁹ where he attributes the following works to the people listed as under:

al-'Abdarī,

- *Mukhtaṣar al-Kifāyah*.

al-Āmidī, Rukn al-Dīn Abū Ḥāmid Muḥammad b Muḥammad,

- *al-Ṭarīqat al-Āmidiyyah fī al-Khilāf wa al-Jadl*.

al-Baghawī, al-Ḥusayn b Mas'ūd b Muḥammad al-Shāfi'ī,

- *Sharḥ al-Sunnah wa bayān ikhtilāf al-Fuqahā'*.

al-Bayhaqī, Abū Bakr Aḥmad b al-Ḥusayn b 'Alī,

- *al-Khilāfiyyāt bayna al-Shāfi'ī wa Abū Ḥanīfah*¹⁶⁰

- *al-Khilāfiyyāt bayna al-Imām Abū Ḥanīfah wa al-Imām al-Shāmī*.

- *Ikhtilāf al-Imāmayn: al-Shāfi'ī wa Abū Ḥanīfah*

al-Dabūsī,

- *Tāsīs al-Naẓr*.

al-Dahhām,

- *Taqwīm al-Naẓr*.

al-Dimishqī, Abū 'Abd Allāh Muḥammad b 'Abd al-Raḥmān,

- *Kitāb Raḥmat al-Ummah*.

al-Hijāzī, Nūr al-Dīn b Nāṣir al-Shāfi'ī,

- *Tajrīd al-Masā'il al-Liṭāf fī ma'rifat al-I'tilāf wa al-Ikhtilāf.*

al-Kirmānī,

- *Sharḥ al-Fuṣūl li Burhān al-Dīn al-Nasafī.*

al-Maqdīsī, 'Alā' al-Dīn 'Alī b Sulaymān b Aḥmad b Muḥammad al-Mardāwī,

- *al-Inṣāf fī ma'rifat al-Rājih min al-Khilāf.*¹⁶¹

al-Marwazī, Abū 'Alī al-Ḥasan b Muḥammad b Aḥmad,

- *Ṭarīqat al-Khilāf bayn al-Shāfi'iyyah wa al-Ḥanafiyyah.*

al-Mundhir, Abū Bakr Muḥammad b Ibrāhīm,

- *al-Ashrāf 'alā madhāhib ahl al-'Ilm.*

- *al-Awsaṭ fī al-Sunan wa al-Ijmā' wa al-Ikhtilāf.*¹⁶²

- *Ikhtilāf al-'Ulamā'.*

al-Nasafī, Burhān al-Dīn,

- *Sharḥ mansha' al-Nazr (fī 'ilm al-Khilāf).*¹⁶³

al-Qudūrī,

- *al-Tajrīd.*

al-Samarqandī, 'Alā al-Dīn Muḥammad b 'Abd al-Ḥamīd,

- *Mukhtalaf al-Riwāyah.*

- *Ta'līq 'alā al-Muṭawwal fī al-Khilāf.*

al-Sarakhsī, Raḍī al-Dīn,

- *al-Ṭarīqat al-Riḍwīyyah.*

al-Sarwī, Muḥammad b Abī Bakr b Maḥmūd,

- *Ikhtilāf al-Ṣaḥābah wa al-A'immaḥ al-Mujtahidīn wa al-Tābi'in wa al-'Ulamā'.*¹⁶⁴

al-Shāshī, Abū Bakr Muḥammad b Aḥmad al-Qaffāl,

- *Hilyat al-'Ulamā' fī Madhāhib al-Fuqahā'*.¹⁶⁵

al-Shirāzī, Ishāq Ibrāhīm b 'Alī al-Firuzābādī,

- *al-Nikat fī masā'il al-Mukhtalaf fihā bayn al-Imāmāyn al-Shāfi'ī wa Abū Hanīfah.*

al-Tahāwī, Abū Ja'far,

- *Ikhtilāf al-Fuqahā'*.¹⁶⁶

Ibn Abū Tālib, 'Izz al-Dīn Abū Mansūr Aḥmad b 'Alī,

- *al-Ihtijāj 'alā ahl al-Lajāj.*

Ibn al-Farrā', Abū Ya'lā Muḥammad b al-Ḥusayn b Muḥammad,

- *al-Ta'līq al-Kabīr fī al-Masā'il al-Khilāfiyyah bayn al-A'immaḥ.*

Ibn Hubayrah, Abū al-Muẓaffar 'Awn al-Dīn Yaḥyā,

- *al-Ishrāf 'alā madhāhib al-Ashrāf.*¹⁶⁷

Ibn Jamā'ah,

- *al-Wasā'il fī furūq al-Masā'il.*

Ibn al-Jawzī, Abū al-Faraj 'Abd al-Raḥmān b 'Alī,

- *al-Taḥqīq fī aḥādīth al-Khilāf.*

Sibt Ibn al-Jawzī, Shams al-Dīn Abū al-Muẓaffar Yūsuf b Qarughlī,

- *Īthār al-Inṣāf fī āthār al-Khilāf or Khilāf al-A'immaḥ al-Arba'ah or as Wasā'il al-Ikhtilāf ilā masā'il al-Khilāf.*

To this list I add the following works:

(1) *Kitāb al-Masā'il al-Muhimmah fī ikhtilāf al-A'immaḥ*,¹⁶⁸

by Qāḍī Sirāj al-Dīn al-Hudhalī.¹⁶⁹

(2) *Kitāb ikhtilāf usuli al-Madhāhib wa al-Radd 'alā man khālafa al-Ḥaqq fihā* by Qāḍī Nu'mān b Muḥammad. This work was

edited by Dr. S.T. Lokhandwalla and was printed by the Indian Institute of Advanced Study, Simla in 1972.

In the introduction of this work, Dr. Lokhandwalla lists the following works as other polemical works of Qāḍī Nu'mān:

- *Kitāb al-Ittifāq wa al-Iftirāq*. In this the author compiled all the legal doctrines showing where the jurists of the Orthodox schools agreed with the Fātimids and where they disagreed. He (i.e. Qāḍī Nu'mān) also composed an abridged version of this book.

- *al-Risālatu al-Miṣriyyah fī al-Radd 'alā al-Shāfi'ī*. It is also mentioned that he also wrote his refutation against Abū Ḥanīfah and Mālik.

- *al-Radd 'alā Aḥmad b Surayj al-Baghdādī*.

- *Dāmigh al-Mustakhraj fī al-Radd 'alā al-'Utbī*. This is a refutation against the Mālikites.

- *Risālah dhāt al-Bayān fī al-Radd 'alā Ibn Qutaybah*.

But unlike the *Kitāb ikhtilāf uṣūlī al-Madhāhib*, which deals with the principles of Islamic law, these works are concerned with the substantive law (*al-furū*).¹⁷⁰

(3) *Kitāb ikhtilāf al-A'immaḥ* [or *al-'Ulamā'*] by Abū Muẓaffar al-Wazīr Yaḥyā b Muḥammad b Hubairah.¹⁷¹

(4) *Kitāb waḍa' al-Inṣāf fī raf' al-Khilāf* by Burhān al-Dīn Ibrāhīm b 'Umar al-Ja'barī.¹⁷²

(5) *Kitāb al-Inṣāf fīmā bayna al-‘Ulamā’ min al-Ikhtilāf*,¹⁷³
by Abū ‘Umar Jamāl al-Dīn Yūsuf b ‘Abd al-Barr al-Qurṭubī.

(6) *Kitāb bidāyat al-Mujtahid wa nihāyat al-Muqtaṣid*, by Ibn
Rushd.¹⁷⁴ This work has been translated into English by Dr. Imran
Aḥsan Khan Nyazee and has been published by Garnett publisher,
Reading, UK in 1994. And Dr. Abdullah Yate made a study of this
work for his Ph.D. in Cambridge in 1991, under the title "Ibn al-
Rushd as Jurist".

List of books al-Sha'rānī studied before writing the
Mīzān

As mentioned earlier, al-Sha'rānī lists those books which he had studied either by way of committing to memory, or studied from the 'ulamā' or those books which he studied by himself. By giving this long list, the author tries to prove that he has not concocted this balance out of his own imagination, rather the basis of his thought is hidden in the pages of these books, the truth and reality of which he managed to realize through the study of these works and through the spiritual exercises he underwent. Therefore, he encourages and at the same time challenges those who do not believe in what he had established through this balance to read the books as he had read and then discuss them with him. He is very sure that by reading these books one will not rush to criticise the author of this balance. Those books which he had committed to memory and presented them before the 'ulamā' include - the following titles are arranged according to their occurrence in *al-Mīzān* :

<u>Subject</u>	<u>Title</u>	<u>Author</u>
<i>Fiqh</i>	<i>Kitāb minhāj</i>	al-Nawawī
	<i>Kitāb al-Rawḍ</i>	Ibn al-Muqrī
<i>Uṣūl al-Fiqh</i>	<i>Kitāb jam' al-Jawāmi'</i>	[al-Subkī]
<i>Naḥw</i>	<i>Kitāb alfiyah</i>	Ibn Mālik
	<i>Kitāb al-Tawḍīḥ</i>	Ibn Hishām

<i>Ma'ānī wa al-Bayān</i>	<i>Kitāb talkhīṣ al-Miftāḥ</i>	
<i>'Ilm al-Ḥadīth</i>	<i>Kitāb alfiyah</i>	al-'Irāqī
<i>'Ilm al-Qirā'ah</i>	<i>Kitāb al-Shāṭibiyyah</i>	[al-Shāṭibī]

Thus he memorized the *Mutūn* (basic texts) of these works which are commented by others. Thereafter, al-Sha'rānī lists those works on which he had read their commentaries (*Shurūḥ*) before the '*Ulamā*' through discussion and ascertaining the details according to his level of understanding and ability. These include:

<u>Title</u>	<u>Author</u>
<i>Sharḥ al-Minhāj</i>	Jalāl al-Maḥallī
"	Ibn Qāḍī 'Ajlūn
<i>Sharḥ al-Rawḍah</i>	Zakariyah al-Anṣārī
<i>Sharḥ bahjah al-Kubrā</i>	"
<i>Sharḥ al-Taḥrīr</i>	"
<i>Sharḥ al-Tanqīḥ</i>	"
<i>Sharḥ al-Risālah al-Qushayriyyah</i>	"
<i>Sharḥ ādāb al-Baḥth</i>	"
<i>Sharḥ ādāb al-Qaḍā'</i>	"

<i>Sharḥ al-Bukhārī</i>	"
"	Shams al-Dīn al-Jawjarī
<i>Kitāb al-Qūt</i>	al-Adhraʿī
<i>Qitʿah</i>	al-Zarkashī
<i>al-Takmilah</i>	"
<i>Qitʿah ʿalā al-Minhāj</i>	al-Subkī
<i>Kitāb al-Tawshīh</i>	Ibn al-Subkī
<i>Sharḥ al-Minhāj</i>	Ibn al-Mulaqqin
<i>Sharḥ al-Tanbīh</i>	"
<i>Sharḥ shubhāt al-Kabīr</i>	Ibn al-Qāḍī
<i>Sharḥ shubhāt al-Ṣaghīr</i>	"
<i>Sharḥ al-Rawḍ</i>	
<i>Sharḥ al-Muhimmāt</i>	
<i>Sharḥ al-Khādim</i>	
<i>Sharḥ al-Muhadhhab</i>	
<i>Sharḥ al-Qitʿah</i>	
<i>Sharḥ al-Takmilah</i>	
<i>Sharḥ shubhāt al-Rāfiʿ al-Kabīr</i>	Ibn al-Qāḍī

Sharḥ al-Basīt

Sharḥ al-Waṣīt

Sharḥ al-Wajīz

Fatāwā

al-Qaffāl

"

Qādī Husayn

"

Ibn al-Ṣalāḥ

"

al-Ghazālī

Sharḥ alfiyat Ibn Mālīk

Ibn Umm Qāsim

"

al-Makwādī

"

al-Ashmūnī

"

Ibn 'Uqayl

"

Ibn al-Muṣannif

Sharḥ al-Tawḍīḥ

Shaykh Khālīd

Sharḥ al-Mughnī

Sharḥ alfiyah

al-Irāqī

"

al-Sakhāwī

"

al-Suyūṭī

"

al-Anṣārī

<i>‘Ulūm al-Ḥadīth</i>	Ibn al-Ṣalāḥ
<i>Mukhtaṣar</i>	al-Nawawī
<i>Sharḥ jam‘ al-Jawāmi‘</i>	al-Maḥallī
<i>Hāshiyah jam‘ al-Jawāmi‘</i>	Ibn Abī Sharīf
<i>al-‘Aḍud</i>	
<i>al-Muṭawwal</i>	
<i>Sharḥ al-Shāṭibīyah</i>	al-Sakhāwī
"	Ibn al-Qāsiḥ
<i>Kashshāf</i>	[al-Zamakhsharī]
	al-Bayḍāwī
<i>Hāshiyat al-Bayḍāwī</i>	al-Suyūṭī
"	Ibn Zuhrah
"	Ibn ‘Ādil
"	al-Khawāshī
"	al-Wāḥidī
"	‘Abd al-‘Azīz al-Dīrīnī
"	al-Tha‘labī
<i>al-Durar al-Manthūr</i>	al-Suyūṭī

<i>Sharḥ al-Bukhārī</i>	al-Qaṣṭalānī
"	Ibn Ḥajar
"	al-Kirmānī
"	al-‘Aynī
"	al-Barmāwī
<i>Sharḥ muslim</i>	al-Nawawī
"	Qāḍī ‘Iyāḍ
<i>K. al-Aḥwadī Sharḥ al-Tirmidhī</i>	Abū Bakr Ibn al-‘Arabī al-Makkī
<i>K. al-Shifā’</i>	Qāḍī ‘Iyāḍ
<i>K. al-Muwāhib Ladunyah fī al-Minah al-Muḥammadīyah</i>	

Then he goes on to mention those books which he read by himself and consulted the ‘ulamā’ in respect of the difficult terms therein. These include:

<i>Sharḥ al-Rawḍ</i>	
<i>K. al-Umm</i>	al-Shāfi‘ī
<i>Mukhtaṣar</i>	al-Muzanī
<i>Sharḥ Mukhtaṣar al-Muzanī</i>	Zakariyah al-Anṣārī

<i>Musnad</i>	al-Shāfi‘ī
<i>al-Ḥāwī</i>	
<i>K. al-Muḥallā</i>	Ibn Ḥazm
<i>K. al-Milal wa al-Niḥal</i>	"
<i>K. al-Mu‘allā M. al-Muḥallā</i>	Muḥyi al-Dīn Ibn ‘Arabī
<i>al-Ḥāwī</i>	al-Māwardī
<i>al-Aḥkām al-Sultānīyah</i>	"
<i>al-Furū‘</i>	Ibn al-Ḥaddād
<i>K. al-Shāmīl</i>	Ibn al-Ṣabbāgh
<i>K. al-‘Uddah</i>	Abū Muḥammad al-Juwaynī
<i>K. al-Muḥīṭ</i>	"
<i>K. al-Furūq</i>	[al-Qarāfī]
<i>K. al-Rāfi‘ al-Kabīr</i>	
<i>K. al-Rāfi‘ al-Ṣaghīr</i>	
<i>Sharḥ al-Muḥadḥhab</i>	al-Nawawī
"	al-Subkī
<i>al-Muḥimmāt</i>	
<i>Sharḥ al-Muḥimmāt</i>	

<i>K. al-Khādim</i>	
<i>K. al-Tawassit</i>	al-Adhra'ī
<i>K. al-Faṭḥ</i>	"
<i>K. al-'Umdah</i>	Ibn al-Mulaqqin
<i>K. al-'Ujālah</i>	"
<i>Tafsīr al-Jalālayn</i>	[al-Suyūṭī and al-Maḥallī]
<i>Faṭḥ al-Bārī bi sharḥ al-Bukhārī</i>	[Ibn Ḥajar al-'Asqalānī]
<i>al-Tanqīḥ</i>	al-Zarkashī
<i>Sharḥ Muslim</i>	al-Fārisī
<i>Hāshiyat al-Kashshāf</i>	al-Ṭaybī
"	al-Taftāzānī
"	Ibn al-Munīr
<i>Baḥr</i>	Abū Ḥayyān
<i>I'rāb al-Sāmīn</i>	
<i>I'rāb</i>	al-Safāqisī
<i>Hāshiyat al-Bayḍāwī</i>	Zakariyyā al-Anṣārī
<i>Tafsīr</i>	Ibn al-Naqīb al-Maqdisī
<i>Muwattā'</i>	<i>imām</i> Mālik

<i>Musnad</i>	<i>imām Aḥmad</i>
<i>Masānīd</i>	Abū Ḥanīfah
<i>K. al-Bukhārī</i>	
<i>K. Muslim</i>	
<i>K. Abī Dāwūd</i>	
<i>K. al-Tirmidhī</i>	
<i>K. al-Nisā'ī</i>	
<i>Sharḥ Ibn Khuzaymah</i>	
<i>Sharḥ Ibn Ḥabbān</i>	
<i>Musnad</i>	Sa'īd b 'Abd Allāh al-Azdḥā
"	'Abd Allāh b Ḥamīd
<i>al-Ghaylāniyyāt</i>	
<i>Musnad al-Firdaus al-Kabīr</i>	
	al-Ṭabarānī
<i>K.</i>	Ibn Athīr
	al-Suyūṭī
<i>K. al-Sunan al-Kubrā</i>	al-Bayhaqī
<i>Ṣiḥāḥ</i>	al-Jawharī

<i>K. al-Nihāyah</i>	Ibn Athīr
<i>K. al-Qāmūs</i>	
<i>K. Tahdhīb al-Asmā' wa al- Lughāt</i>	al-Nawawī
<i>Fatāwā</i>	al-Māwardī
"	Ibn al-Haddād
"	Ibn 'Abd al-Salām
"	al-Subkī
"	al-Bulqīnī
"	Zakariyyā al-Anṣārī
"	Shihāb al-Dīn
" <i>al-Kubrā</i>	al-Nawawī
" <i>al-Ṣuḡhrā</i>	"
<i>Fatāwā</i>	Ibn Farkah
"	Ibn Abī Sharīf
<i>Qawā'id al-Kubrā</i>	Ibn 'Abd al-Salām
" <i>al-Ṣuḡhrā</i>	"
"	al-'Alā'ī
"	Ibn al-Subkī

"	al-Zarkashī
<i>Sīrah</i>	Ibn Hishām
"	al-Kalā'ī
"	Ibn Sayyid al-Nās
"	Muḥammad al-Shāmī
<i>K. al-Mu'jizah wa al-Khaṣā'is</i>	al-Suyūṭī
<i>K. al-Qūt</i>	Abī Ṭālib al-Makkī
<i>al-Ri'āyah</i>	Ḥārith al-Muḥāsabī
<i>Risālah</i>	al-Qushayrī
<i>Iḥyā'</i>	al-Ghazālī
<i>'Awārif al-Ma'ārif</i>	al-Shuhrawardī
<i>Risālat al-Nūr</i>	Aḥmad al-Zāhid
<i>K. Minaḥ al-Minnah</i>	Muḥammad al-Ghumarī
<i>K. al-Futūḥāt al-Makkīyah</i>	[Ibn 'Arabī]
<i>al-Mudawwanah al-Kubrā</i>	
" <i>al-Ṣuḡhrā</i>	
<i>K.</i>	Ibn 'Urfah
<i>K.</i>	Ibn Rushd

<i>Sharḥ Risālah Ibn Abī Zayd</i>	al-Tatā'ī
"	Jalāl al-Dīn b Qāsim
<i>Sharḥ al-Mukhtaṣar</i>	al-Tatā'ī
"	Bahrām
	Ibn Ḥāḡib
<i>Sharḥ al-Qudūrī</i>	
<i>Sharḥ Majma' al-Baḥrayn</i>	
<i>Sharḥ Kanz</i>	
<i>Fatāwā</i>	Qāḡī Khān
<i>al-Manzūmah</i>	al-Nasafī
<i>Sharḥ al-Ḥidāyah</i>	
<i>Takhrīj aḥādīth al-Ḥidāyah</i>	Ḥāfiẓ al-Zaylā'ī
<i>Sharḥ al-Kharqī</i>	
	Ibn Baṭṭah

Jurisprudential Flow

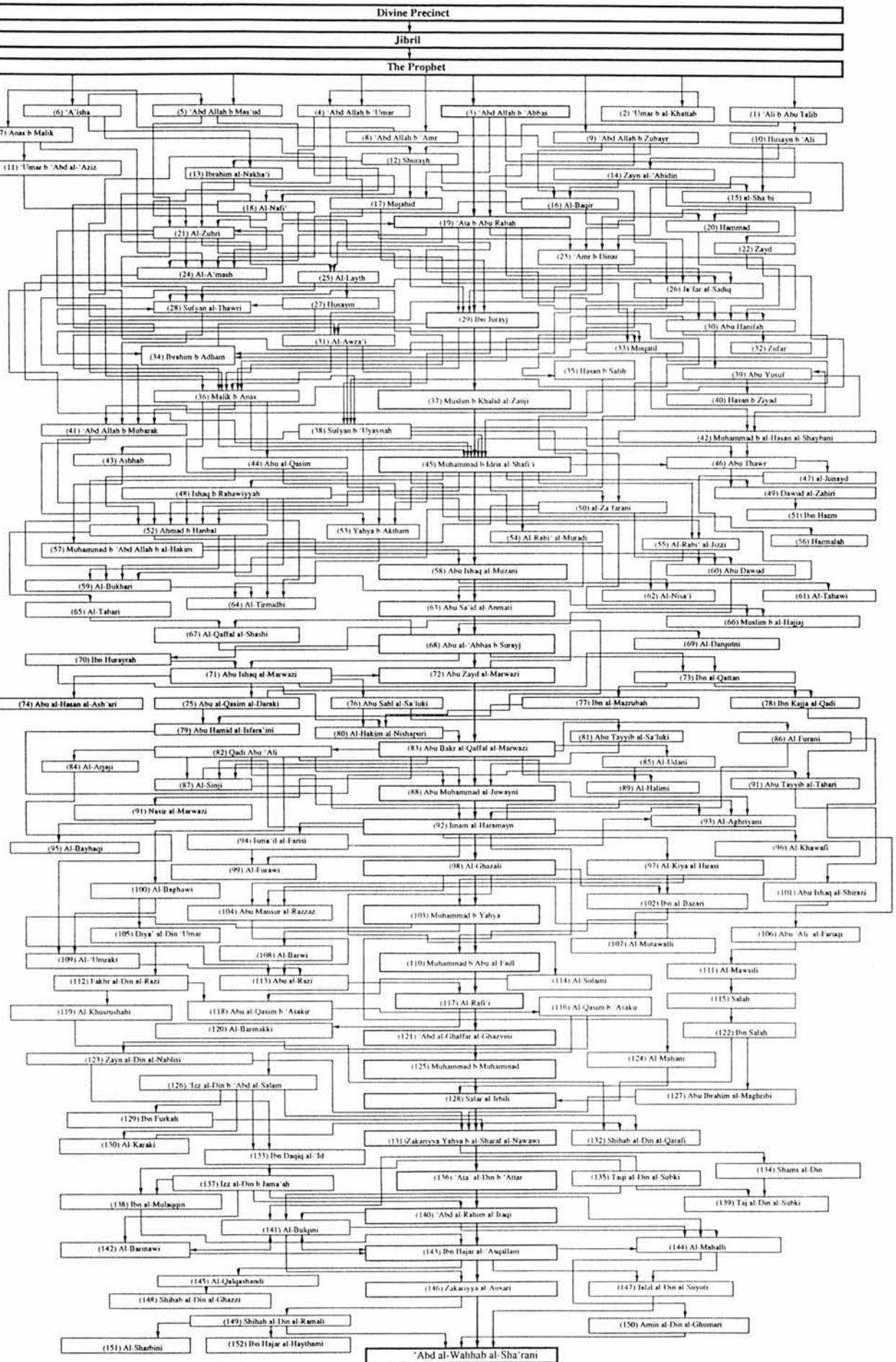
The following diagram represents the flow of jurisprudential thought from the Divine Precinct to the waves of *mujtahids* who came after the Prophet. The aim is to show that irrespective of the variations and differences in their legal schools the *mujtahids* as a whole are integrated within the flow. Therefore, the differences in their jurisprudential thinking should not be construed as a departure from the flow. These differences are, in fact, enshrined in the source of flow, i.e.: the Divine Precinct. As such, had He not enabled such and such a *mujtahid* to deduce such and such rules, then the *mujtahid* would not have deduced the rules.

Moreover, the inclusion of the *muḥaddiths* and the *ṣūfīs* is to show that there is a great interdependence between *ḥadīth*, *taṣawwuf* and *fiqh*. No *ṣūfī* can claim to have trod the path of *taṣawwuf* without adhering to *fiqh*. Thus the expressions like *ishtaghala ‘alā, sami‘a min, tafaqqaha ‘alā* and *darasah ‘alā* have been treated as synonyms.

The following abbreviations are used in the details that follows the chart:

S. - *ṣahābah*, T. - *tābi‘īn*, T.T. - *tab‘ al-tābi‘īn*, H - Ḥanafites,
M - Mālikites, S - Shāfi‘ites, A - Ḥanbalites, O - Other *madhāhib*
Tb - Ṭabarites, Th - Thawrites, Z - Zāhirites.

JURISPRUDENTIAL FLOW



No.	Name	Birth	Death	Birth	Death	S.	T.	T.T.	Reference
1	'Alī b Abū Ṭālib	23 B.H.	40 h.	Makkah	Kūfah	*	-	-	see note 27 on p. 33
2	'Umar b al-Khaṭṭāb	-	32 h.	Makkah	Madīnah	*	-	-	see note 219 on p. 136.
3	'Abd Allāh b al-'Abbās	-	68 h.	Makkah	Ṭā'if	*	-	-	see note 29 on p. 129
4	'Abd Allāh b 'Umar	11 B.H.	73 h.	Makkah	Makkah	*	-	-	see note 32 on p. 129
5	'Abd Allāh b Mas'ūd	562 A.D.	32 h.	Makkah	Madīnah	*	-	-	see note 123 on p. 158
6	'Ā'isha bt. Abū Bakr	8 B.H.	58 h.	Makkah	Madīnah	*	-	-	<u>al-Shūrāzī</u> , p. 29; <u>FEL</u> , 1:216-7.
7	Anas b Mālik	10 B.H.	91 h.	Makkah	Basrah	*	-	-	<u>EIN</u> , 1:482.
8	'Abd Allāh b 'Amr	-	77 h.	Makkah	Misr	*	-	-	<u>Tahdhīb</u> , 5:337-8.
9	'Abd Allāh b al-Zubayr	26 h.	74 h.	Makkah	Makkah	*	-	-	<u>al-Shūrāzī</u> , pp. 40-1.
10	Ḥusayn b 'Alī	4 h.	61 h.	Madīnah	Irāq	*	-	-	<u>TKS</u> , 1:21.
11	'Umar b 'Abd al-'Azīz	61 h.	101 h.	-	Madīnah	-	*	-	<u>al-Shūrāzī</u> , pp. 48-9.
12	Shurayh b al-Hārith b Qays	-	92 h.	-	Kūfah	-	*	-	<u>Tahdhīb</u> , 4:326-8.
13	Ibrāhīm al-Nakha'ī	46 h.	96 h.	Kūfah	Kūfah	-	*	-	see note 121 on p. 200

No.	Name	Date of		Place of		Status		Reference
		Birth	Death	Birth	Death	s.	T.	
14	Zayn al-ʿĀbidīn b ʿAlī b al-Husayn	38 h.	94 h.	Madīnah	Madīnah	-	*	<i>Wafayāt</i> , 3:266-9.
15	ʿĀmir b Shurāhīl al-Shaʿbī	-	103 h.	Kūfah	Kūfah	-	*	see note 282 on p. 205
16	al-Bāqir Muḥammad b ʿAlī	56 h.	117 h.	-	-	-	*	<i>Wafayāt</i> , 2:187.
17	Mujāhid b Jubayr	21 h.	100 h.	Makkah	Makkah	-	*	see note 161 on p. 244
18	al-Nāfiʿ	-	117 h.	-	-	-	*	see note 31 on p. 129.
19	ʿAlīʾ b Abū Rabāḥ	-	114 h.	Yaman	Makkah	-	*	see note 28 on p. 129.
20	Ḥammād b Abū Sulaymān	-	119 h.	-	Kūfah	-	*	<i>al-Shirāzī</i> , p. 84.
21	Muḥammad b Muslim b ʿAbd Allāh b Shihāb al-Zuhri	50 h.	124 h.	-	-	-	*	<i>Tahdhīb</i> , 10:267.
22	Zayd	80 h.	122 h.	-	-	-	*	<i>Ibid.</i> , 3:165.
23	ʿAmr b Dīnār	-	126 h.	-	Makkah	-	*	<i>al-Shirāzī</i> , pp. 58-9.
24	Sulaymān b Mihrān al-Aʿmash	60 h.	148 h.	Kūfah	-	-	*	see note 178 on p. 244.
25	al-Layth b Saʿd b ʿAbd al-Rahmān	-	175 h.	-	-	-	*	see note 49 on p. 130.
26	Jaʿfar al-Ṣādiq	80 h.	143 h.	-	Madīnah	-	*	see note 102 on p. 244.

No.	Name	Date of		Place of		Status			Reference
		Birth	Death	Birth	Death	S.	T.	T.T.	
27	Ḥuṣaym b Bashīr b Qāsim b Dīnār b Sulamī	104 h.	183 h.	-	-	-	-	*	<i>Tahdhīb</i> , 11:59.
28	Sufyān al-Thawrī	98 h.	161 h.	Kūfah	Basrah	-	-	*	see note 204 on p. 89.
29	Ibn Jurayj	80 h.	105 h.	Makkah	Makkah	-	-	*	<i>al-Shīrāzī</i> , p. 60.
30	Abū Ḥanīfah	80 h.	150 h.	Kūfah	Baghdād	-	-	*	see note 27 on p. 129
31	al-Awzā'ī	88 h.	157 h.	Ba'labek	Beirut	-	-	*	see note 51 on p. 130.
32	Zufar	110 h.	158 h.	-	Basrah	-	-	*	see note 298 on p. 247.
33	Muqātil b Sulaymān b Bashīr al-Azadī	-	150 h.	-	Basrah	-	-	*	<i>Ṭaqrīb</i> , 2:272.
34	Ibrāhīm b Adham	-	140 h.	-	Sūr	-	-	*	see note 275 on p. 93.
35	Ḥasan b Ṣāliḥ	100 h.	199 h.	-	-	-	-	*	<i>Ṭaqrīb</i> , 1:167.
36	Mālik b Anas	93 h.	179 h.	Madīnah	Madīnah	-	-	*	see note 30 on p. 129.
37	Muslim b Khālīd al-Zanjī	-	179 h.	-	Makkah	-	-	*	<i>al-Shīrāzī</i> , p. 60.
38	Sufyān b 'Uyaynah	107 h.	180 h.	Marw	Baghdād	-	-	*	see note 139 on p. 158.

No.	Name	Birth	Death	Birth	Death	Occurrence of Letters					Reference
						H	M	S	A	O	
39	Abū Yūsuf	113 h.	183 h.	Kūfah	Kūfah	*	-	-	-	-	see note 33 on p. 240.
40	al-Ḥasan b Ziyād al-Lu'lu'i	-	204 h.	-	-	*	-	-	-	-	<i>I'tidāl</i> , 1:491.
41	'Abd Allāh b Mubārak	128 h.	180 h.	Marw	Baghdād	-	*	-	-	-	<i>al-Shirāzī</i> , pp. 107-8.
42	Muhammad b al-Ḥasan al-Shaybāni	132 h.	189 h.	Irāq	Ray	*	-	-	-	-	see note 32 on p. 240.
43	Ashhab b 'Abd al-'Azīz	150 h.	204 h.	Misr	Misr	-	*	-	-	-	see note 288 on p. 247.
44	Abū al-Qāsim	132 h.	191 h.	Misr	Misr	-	*	-	-	-	<i>Wafayāt</i> , 3:129-30.
45	Muhammad b Idris al-Shafī'i	150 h.	204 h.	Gāzā	Egypt	(2) *	(1) *	*	-	-	see note 162 on p. 40.
46	Abū Thawr	170 h.	240 h.	Baghdād	Baghdād	-	-	*	-	-	see note 167 on p. 134.
47	al-Junayd al-Baghdādi	-	267 h.	Irāq	Baghdād	-	-	(1) *	-	(2) T	see note 115 on p. 37.
48	Ishaq b Rahāwiyah	61 h.	166 h.	Ray	Nishāpūr	-	-	*	-	-	see note 50 on p. 130.
49	Dāwūd al-Zāhiri	202 h.	270 h.	Kūfah	Baghdād	-	-	(1) *	-	(2) Z	see note 143 on p. 243.
50	Abū 'Alī al-Za'farānī	-	249 h.	-	-	-	-	*	-	-	<i>Wafayāt</i> , 2:73-4.
51	Ibn Ḥazm	384 h.	456 h.	Cordova	Lablah	-	(1) *	-	-	(2) Z	see note 120 on p. 242.

No.	Name	Birth	Death	Birth	Death	H	M	S	Reference		
									A	O	
52	Aḥmad b Ḥanbal	164 h.	241 h.	Marw	Baghdād	-	-	(1) *	(2) *	-	see note 20 on p. 33.
53	Yahyā b Aktham	159 h.	242 h.	Miṣr	Miṣr	-	-	*	-	-	Wafayāt, 6:163.
54	Rabī' al-Murādi	-	270 h.	Miṣr	Miṣr	-	-	*	-	-	see note 35 on p. 240.
55	Rabī' al-Jīzi	180 h.	256 h.	Miṣr	Makkah	-	-	*	-	-	see note 323 on p. 95.
56	Ḥarmalah	166 h.	243 h.	Miṣr	Miṣr	-	-	*	-	-	Wafayāt, 2:64-5.
57	Muḥammad b 'Abd Allāh b al-Ḥakam	182 h.	260 h.	Miṣr	Miṣr	-	(1) *	(2) *	-	-	Ibid., 4:193-4.
58	Abū Ishāq al-Muzani	-	268 h.	Miṣr	Miṣr	-	-	*	-	-	see note 34 on 240.
59	al-Bukhārī	194 h.	256 h.	Bukhārāh	-	-	-	*	-	-	see note 85 on p. 132.
60	Abū Dāwūd	202 h.	275 h.	-	Basrah	-	-	-	*	-	see note 90 on p. 132.
61	Abū Ja'far al-Ṭahāwī	229 h.	321 h.	Miṣr	Miṣr	(2) *	-	(1) *	-	-	see note 88 on p. 199.
62	Abū 'Abd al-Rahmān al-Nisā'ī	215 h.	303 h.	Nasā'	Makkah	-	-	*	-	-	see note 106 on p. 157.
63	Abū Sa'īd al-Anmāṭī	-	288 h.	Baghdād	-	-	-	*	-	-	al-Shirāzī, p. 59.
64	Abū Ja'far al-Tirmidhi	200 h.	295 h.	-	Baghdād	(1) *	-	(2) *	-	-	see note 105 on p. 157.

No.	Name	Date of Birth		Place of Birth		Schools of Law					Reference
		Birth	Death	Birth	Death	H	M	S	A	O	
65	Abū Ja'far al-Ṭabarī	224 h.	310 h.	Āmul	Baghdād	-	-	-	-	Tb.	see note 328 on p. 95.
66	Muslim b al-Hajjāj	206 h.	261 h.	-	Nishāpūr	-	-	-	*	-	see note 86 on p. 132.
67	Abū Bakr al-Qaffāl al-Shāshī	291 h.	366 h.	-	Shāsh	-	-	*	-	-	Waqfayāt, 4:200-1.
68	Abū al-'Abbās b Surayj	239 h.	306 h.	-	Baghdād	-	-	*	-	-	see note 122 on p. 38.
69	al-Dāraqutnī	306 h.	385 h.	Baghdād	Baghdād	-	-	*	-	-	Waqfayāt, 3:297-9.
70	Abū 'Alī b Abū Hurayrah	-	345 h.	-	Baghdād	-	-	*	-	-	Ibid., 2:75.
71	Abū Ishāq al-Marwazī	-	340 h.	Irāq	Misr	-	-	*	-	-	Ibid., 1:26-7.
72	Abū Zayd al-Marwazī	-	371 h.	-	Marw	-	-	*	-	-	Ibid., 4:208-9.
73	Ibn al-Qatān	-	359 h.	-	Baghdād	-	-	*	-	-	Ibid., 1:70.
74	Abū al-Ḥasan al-Ash'arī	270 h.	330 h.	Basrah	Baghdād	-	-	*	-	-	Ibid., 3:284-6.
75	Abū al-Qāsim al-Dārakī	-	375 h.	-	Baghdād	-	-	*	-	-	Ibid., 3:188-9.
76	Abū Sahl al-Sa'likī	269 h.	369 h.	Nishāpūr	-	-	-	*	-	-	Ibid., 4:204-5.
77	Ibn al-Marzubān	-	366 h.	Baghdād	Baghdād	-	-	*	-	-	Ibid., 3:281.

No.	Name	Birth	Death	Birth	Death	H	M	S	Reference		
									A	O	
78	Abū al-Qāsim b Kajja Qādī	-	405 h.	-	Dīnwar	-	-	*	-	-	<i>Ibid.</i> , 7:65.
79	Abū Ḥāmid al-Isfārā'inī	344 h.	406 h.	Isfārā'in	Baghdād	-	-	*	-	-	<i>Ibid.</i> , 1:72-4.
80	al-Ḥākim al-Nishāpūrī	321 h.	405 h.	Nishāpūr	Nishāpūr	-	-	*	-	-	see note 89 on p. 132.
81	Abū Ṭayyib al-Sa'lūkī	-	380 h.	Nishāpūr	-	-	-	*	-	-	<i>Wafayāt</i> , 2:435-6.
82	Qādī Abū 'Alī al-Ḥusayn	-	462 h.	-	Marwar rūdh	-	-	*	-	-	<i>Ibid.</i> , 2:134-5.
83	Abū Bakr al-Qaffāl al-Marwazī	327 h.	417 h.	-	Sijistān	-	-	*	-	-	<i>Ibid.</i> , 3:46.
84	Abū Bakr Aḥmad b al-Ḥusayn al-Arrajānī	460 h.	544 h.	-	Tūstar	-	-	*	-	-	<i>Ibid.</i> , 1:151-5.
85	Abū Bakr al-Ūdanī	-	385 h.	-	Bukhārā	-	-	*	-	-	<i>Ibid.</i> , 4:209-11.
86	Abū al-Qāsim al-Furānī	388 h.	461 h.	-	Marw	-	-	*	-	-	<i>Ibid.</i> , 3:132.
87	Abū 'Alī al-Sinjī	-	430 h.	-	-	-	-	*	-	-	<i>Ibid.</i> , 2:135-6.
88	Abū Muḥammad al-Juwaynī	-	434 h.	-	Nishāpūr	-	-	*	-	-	see note 266 on p. 246.
89	Abū 'Abd Allāh al-Ḥalīmī	338 h.	403 h.	Jurjān	-	-	-	*	-	-	<i>Wafayāt</i> , 2:137-8.
90	Abū Ṭayyib al-Ṭabarī	348 h.	450 h.	Āmul	Baghdād	-	-	*	-	-	<i>Ibid.</i> , 2:512-5.

No.	Name	Birth	Death	Birth	Death	H	Character of ...				Reference
							M	S	A	O	
91	Nāṣir b Muḥammad b 'Umarī al-Marwazī	-	486 h.	-	Baghdād	-	-	*	-	-	<i>Ibid.</i> , 6:218.
92	Imām al-Ḥaramayn al-Juwaynī	419 h.	478 h.	-	Nishāpūr	-	-	*	-	-	see note 137 on p. 201.
93	Abū Naṣr Aghriyānī	445 h.	528 h.	Nishāpūr	-	-	-	*	-	-	<i>Wafayāt</i> , 4:221.
94	Ismā'īl al-Fārisī	451 h.	529 h.	Nishāpūr	-	-	-	*	-	-	<i>Ibid.</i> , 3:225.
95	Abū Bakr al-Bayhaqī	384 h.	458 h.	-	Nishāpūr	-	-	*	-	-	see note 79 on p. 132.
96	Abū al-Muẓaffar al-Khawālī	-	500 h.	-	Tūs	-	-	*	-	-	<i>Wafayāt</i> , 1:96-7.
97	Abū al-Ḥasan Kiyā al-Hirāsī	450 h.	504 h.	-	Baghdād	-	-	*	-	-	see note 139 on p. 202.
98	Abū Ḥamid al-Ghazzālī	450 h.	505 h.	Ṭābirān	Ṭābirān	-	-	*	-	-	see note 118 on p. 37.
99	Abū 'Abd Allāh al-Furāwī	441 h.	530 h.	Nishāpūr	-	-	-	*	-	-	<i>Wafayāt</i> , 4:290-1.
100	Abū Muḥammad al-Farrā' al-Baghawī	-	510 h.	-	Marwar rūdh	-	-	*	-	-	<i>Ibid.</i> , 2:136-7.
101	Abū Ishāq al-Shīrāzī	393 h.	476 h.	Firōzā bād	Baghdād	-	-	*	-	-	<i>Ibid.</i> , 1:29-31.
102	Abū al-Qāsim b al-Bazzārī	471 h.	560 h.	-	Jazīrah	-	-	*	-	-	<i>Ibid.</i> , 3:444-5.
103	Muḥammad b Yahyā	476 h.	548 h.	-	Nishāpūr	-	-	*	-	-	<i>Ibid.</i> , 4:223-4.

No.	Name	Date of Birth		Death	Birth	Death	Periods of Ban					Reference
		Birth	Death				H	M	S	A	O	
104	Abū Mansūr Sa'īd b Muḥammad b 'Umar b al-Razzāz	462 h.	539 h.	-	-	-	-	-	*	-	-	<i>Ibn al-Subkī</i> , 7:93.
105	Ḍiyā' al-Dīn Abū al-Qāsim 'Umar b al-Ḥasan b al-Ḥusayn	-	580 h.	-	-	-	-	-	*	-	-	<i>Ibid.</i> , 7:242.
106	Abū 'Alī al-Ḥasan b Ibrāhīm b 'Alī b Buhūn al-Fāriq	433 h.	528 h.	-	Munafā' riqin	-	-	-	*	-	-	<i>Wafayāt</i> , 2:72.
107	Abū Sa'īd al-Mutawallī	427 h.	478 h.	-	-	-	-	-	*	-	-	<i>Ibn al-Subkī</i> , 5:106-7.
108	Abū Mansūr al-Barruwī	517 h.	567 h.	-	Tūs	Baghdād	-	-	*	-	-	<i>Ibid.</i> , 6:389-91.
109	Abū Bakr al-'Umrakī	-	535 h.	-	-	-	-	-	*	-	-	<i>Ibid.</i> , 7:302-3.
110	Abū 'Abd Allāh Muḥammad al-Faḍl al-Māriḥkī	-	549 h.	-	-	-	-	-	*	-	-	<i>Ibid.</i> , 6:173-4.
111	Abū al-Barakāt al-Mawsilī	-	529 h.	-	-	-	-	-	*	-	-	<i>Ibid.</i> , 5:367.
112	Fakhr al-Dīn Muḥammad al-Rāzī	543 h.	606 h.	-	-	Herāt	-	-	*	-	-	<i>al-Shū'arā'</i> , p. 263.
113	Muḥammad b 'Abd al-Karīm al-Rāfi'	-	580 h.	-	-	-	-	-	*	-	-	<i>al-Shū'arā'</i> , p. 257.
114	Abū al-Ḥasan al-Sulamī	-	533 h.	-	-	-	-	-	*	-	-	<i>Ibn al-Subkī</i> , 4:283.
115	Ṣalāḥ	539 h.	618 h.	-	-	Halab	-	-	*	-	-	<i>Wafayāt</i> , 3:244-5.
116	al-Qāsim b 'Asākir	499 h.	571 h.	-	-	Damascus	-	-	*	-	-	<i>Ibn al-Subkī</i> , 4:273.

No.	Name	Date of Birth		Date of Death		Jurisdictions of Law					Reference
		Birth	Death	Birth	Death	H	M	S	A	O	
117	Abū al-Qāsim 'Abd al-Karīm al-Rāfi'ī	-	623 h.	-	Gazwīn	-	-	*	-	-	see note 107 on p. 200.
118	Abū al-Qāsim b 'Asākīr	499 h.	571 h.	-	Damascus	-	-	*	-	-	<i>Ibn al-Subkī</i> , 4:273.
119	'Abd al-Ḥamīd Khusrushāhī	580 h.	-	Tabriz	Damascus	-	-	*	-	-	<i>Ibid.</i> , 8:161.
120	al-Barmakkī	-	450 h.	-	-	-	-	*	-	-	<i>Ibid.</i> , 5:259.
121	'Abd al-Qaffār al-Ghaznawī	-	665 h.	-	-	-	-	*	-	-	<i>Ibid.</i> , 8:277-8.
122	Abū 'Amr 'Uthmān b Ṣalāḥ	577 h.	643 h.	Sarakkān	Damascus	-	-	*	-	-	see note 80 on p. 132.
123	Zayn al-Dīn al-Nablīsi	-	663 h.	-	-	-	-	*	-	-	<i>Fawāt</i> , 1:29.
124	al-Mahānī	-	672 h.	Marw	-	-	-	*	-	-	<i>Ibn al-Subkī</i> , 6:69-70.
125	Muḥammad b Muḥammad	-	632 h.	-	-	-	-	*	-	-	<i>Ibid.</i> , 7:293.
126	'Izz al-Dīn b 'Abd al-Salām	578 h.	660 h.	Damascus	Cairo	-	-	*	-	-	see note 283 on p. 205.
127	Abū Ibrāhīm al-Maghribī	-	668 h.	-	-	-	-	*	-	-	<i>al-Shīrāzī</i> , p. 267.
128	Salār b al-Ḥasan al-Irbilī	-	670 h.	-	-	-	-	*	-	-	<i>Shadharāt</i> , 5:331-2.
129	Ibn Furkāḥ	-	690 h.	-	-	-	-	*	-	-	<i>Ibid.</i> , 5:413-4.

No.	Name	Date of		Place of		Schools of Law					Reference
		Birth	Death	Birth	Death	H	M	S	A	O	
130	al-Karāki	-	685 h.	-	-	-	*	-	-	-	<i>Shajarah, op.cit.</i> , p. 459.
131	Zakariyyā b Yahyā al-Nawawī	631 h.	676 h.	-	Cairo	-	-	*	-	-	see note 201 on p. 41.
132	Shihāb al-Dīn al-Qarāfī	626 h.	684 h.	Cairo	Cairo	-	*	-	-	-	see note 179 on pp. 202.
133	Abū al-Faḥ b Daqīq al-ʿId	625 h.	702 h.	Yanbū	-	-	*	*	-	-	<i>Fawā, 2:484-92.</i>
134	Shams al-Dīn Muḥammad b Abū Bakr al-Naqīb	-	729 h.	-	-	-	-	*	-	-	<i>Ibn al-Subkī, 6:44.</i>
135	Taqī al-Dīn al-Subkī	683 h.	756 h.	Cairo	Cairo	-	-	*	-	-	<i>Ibid.</i> , 6:146.
136	ʿAlā al-Dīn b ʿAṭṭār	-	-	-	Cairo	-	-	*	-	-	<i>Shadharā, 5:285.</i>
137	ʿIzz al-Dīn b Jamāʿah	694 h.	767 h.	Damascus	Cairo	-	-	*	-	-	see note 273 on p. 246.
138	ʿUmar b ʿAbd Allāh b Ahmad b al-Mulaqqin	-	805 h.	-	-	-	-	*	-	-	<i>Sezgin, 1:120.</i>
139	Tāj al-Dīn al-Subkī	-	769 h.	-	Cairo	-	-	*	-	-	see note 276 on p. 205.
140	ʿAbd al-Rahīm al-Iraqī	-	782 h.	-	-	-	-	*	-	-	<i>Durār, op.cit.</i> , 2:169.
141	Sirāj al-Bulqīnī	-	789 h.	-	Cairo	-	-	*	-	-	<i>Ibid.</i> , 1:183.
142	al-Barmawī	-	796 h.	-	-	-	-	*	-	-	<i>Ibid.</i> , 2:99.

No.	Name	Date of		Place of		Schools of Law					Reference
		Birth	Death	Birth	Death	H	M	S	A	O	
143	Aḥmad b Ḥajar al-'Asqalānī	-	852 h.	-	Cairo	-	-	*	-	-	see note 51 on p. 34.
144	Jalāl al-Dīn al-Maḥallī	-	879 h.	-	Cairo	-	-	*	-	-	<i>Durar</i> , <i>op. cit.</i> , 2:156.
145	Burhān al-Dīn al-Qalqashandī	-	925 h.	-	Cairo	-	-	*	-	-	<i>Kawāḍib</i> , 2:169.
146	Zakariyyā al-Anṣārī	-	910 h.	-	Cairo	-	-	*	-	-	see note 41 on p. 34.
147	Jalāl al-Dīn al-Suyūṭī	-	911 h.	-	Cairo	-	-	*	-	-	see note 78 on p. 35.
148	Shihāb al-Dīn al-Ghazzī	931 h.	983 h.	Cairo	Cairo	-	-	*	-	-	<i>al-Kawāḍib</i> , 3:100-9.
149	Shihāb al-Dīn al-Ramālī	-	957 h.	Ramlah	Cairo	-	-	*	-	-	see note 97 on p. 36.
150	Amīn al-Dīn al-Ghamrī	-	926 h.	Cairo	Cairo	-	-	*	-	-	see note 77 on p. 35.
151	Muḥammad al-Khaṭīb al-Sharbīnī	-	977 h.	Cairo	Cairo	-	-	*	-	-	<i>al-Kawāḍib</i> , 3:79-80
152	Aḥmad b Ḥajar al-Haythamī	915 h.	973 h.	Cairo	Makkah	-	-	*	-	-	<i>al-Kawāḍib</i> , 3:111-2

ENDNOTES TO APPENDICES

¹ This work has been edited by Sartain, see p. 336.

² *Al-Manāqib*, p. 68; *JKV*, p. 345; *Winter*, p. 38.

³ *JKV*, p. 345; *Winter*, p. 39.

⁴ *Winter*, p. 38.

⁵ *JKV*, p. 345; *Winter*, p. 39.

⁶ *Ibid.*

⁷ Ibn 'Aṭā' Allāh al-Sikandarī, the author of the renowned *al-Hikam*, has also written a similar work entitled *Laṭā'if al-Minan*. This book has been edited by the then *shaykh* of al-Azhar, Dr. 'Abd al-Ḥalīm Maḥmūd, in Cairo. This shows the relationship between al-Sha'rānī, al-Suyūṭī and al-Sikkandarī, that they are the adherents to the Shādhiliyyah tradition of *al-shukr bi al-ni'mah*.

⁸ He is Zain al-'Ābidīn b 'Abd al-Ra'ūf b Taj al-'Ārifīn b 'Alī b Yaḥyā b Muḥammad b Aḥmad b Makhlūf b 'Abd al-Salām al-Ḥadādī al-Munāwī, born in 952 h. and died in *Cairo* in 1031 h.. He was the principal student of al-Sha'rānī. For details see *Kaḥḥālā*, 4:196; *A'lām*, 6:204.

⁹ *GAL*, 2:394.

¹⁰ It is stated that he has three works written under the name of *al-Ṭabaqāt*. [see text pp. 321-2 notes 86, 88 and 116].

¹¹ The word *manāqib* means extolling one's good virtues or outstanding traits. See *Wehr*, *op.cit.*, p. 989.

¹² *kaḥḥālā*, 6:218.

¹³ *Al-Manāqib*, pp. 67-71.

¹⁴ *GAL*, 2:441-5.

¹⁵ al-Sha'rānī. 'Abd al-Waḥḥāb b Aḥmad, *al-Anwār al-Qudsiyyah fī ma'rifat qawā'id al-Ṣūfiyyah*, ed. by Surūr, Ṭāḥā 'Abd al-Bāqī and Sayyid Muḥammad 'Id al-Shāfi'ī, (Beirut, 1988), pp. 14-5.

¹⁶ *Al-Manāqib*, p. 71.

¹⁷ *Ibid.*, pp. 67-71.

¹⁸ *JKV*, p. 354.

¹⁹ *GAL*, 2:441-5.

²⁰ This is al-Sha'rānī's major work on *akhlāq* (Ethics). see *al-Ghawwās*, p. 16.

²¹ *Ibid.*, p. 15; *Khalīfah*, p. 12.

²² *Pāshā*, 2:117. However, the title is given as *Law'ih al-Khidhlān 'alā man lam ya'mal bi al-Qur'ān*. see *Ghawwās*, p. 13.

²³ This book consists of an introduction, three chapters and a conclusion. It was first published in 1277 h. [see *Mu'jam*, *op.cit.*, p. 1130]. It was printed alongwith *Ṭabaqāt al-Kubrā* in 1315 h. [*Ibid.*, p. 1132]. In *Kashf al-Zunūn* it is given as [*fī ma'rifat ādāb*]. *Khalīfah*, p. 194. This is the first work he wrote under the guidance of his spiritual mentor 'Alī al-Khawwās. see *al-Manāqib*, p. 68.

²⁴ This is a collection of some 2300 *ahādīth* from the works of al-Suyūṭī and al-Sakhāwī. This was first printed in 1277 h. see *Mu'jam*, p. 1130. However, it is given as [*al-Sirāj al-Munīr fī gharīb ahādīth al-Bashīr al-Nadhīr*]. see *Khalīfah*, p. 984.

²⁵ *Ibid.*, pp. 227, 1181 and 1441.

²⁶ In this work al-Sha'rānī mentions about his *khalwah* (privacy) with his teacher 'Alī al-Marṣafī. *Ibid.*, p. 240.

²⁷ *Winter*, p. 8.

²⁸ This book has been edited twice. Once in Russian (see text p. 336) and then in Arabic (see text p. 380). *Pāshā*, *op.cit.*, 1:469.

²⁹ It is given as *al-Durar al-Lawāmi' fī bayān al-Ṣidq wa al-Wara'*. see *al-Ghawwās*, p. 15; *Pāshā*, 1:470.

³⁰ It is given as [*fī dhikr jumlat*] see *Khalīfah*, p. 1234.

³¹ *Ibid.*, p. 1233.

- 32 *Ibid.*, pp. 673-4.
- 33 *Ibid.*, p. 618; *CAB*, p. 85.
- 34 Perhaps this might be the other name of the book entitled *al-Jawāhir wa al-Durar* 'Adad Sitta Mu'allafāt khilāf al-Wulā. see *al-Ghawwās*, p. 14.
- 35 It is given as [*al-Masnūn wa al-Sirr al-Marqūm fīmā*] see *al-Manāqib*, p. 619; *al-Mizān*, 1:12.
- 36 This is the abridgement of an earlier abridgement of the book *al-Futūḥāt al-Makkiyyah* of Muḥyi al-Dīn Ibn al-'Arabī entitled *Lawāqih al-Anwār al-Qudsiyyah al-Muntaqāt min al-Futūḥāt al-Makkiyyah*. see *Mu'jam*, p. 1131; *CAB*, p. 85; *Khalifah*, pp. 1238 and 1382.
- 37 *Khalifah*, p. 1883 and compare it with *Pāshā*, 2:592 wherein it is stated that this work is in Zaitūniyyah, Tunisia.
- 38 Perhaps this is another name for his book entitled *al-Manhaj al-Mubīn fī akhlāq al-'Ārifīn*. see *Pāshā*, 2:592.
- 39 This is written on the margin of the copy of *al-Manāqib al-Kubrā* preserved in the University of Edinburgh. Perhaps this might have been written by Ḥasan al-Sha'rānī who was a student at the university in the year 1935. see *al-Manāqib*, p. 68. This is the commentary (*Sharḥ*) of the testament (*waṣīyyah*) of his teacher Ibrāhīm al-Matbūlī al-Aḥmadī, and was first printed in Cairo in 1276 h. see *Mu'jam*, p. 1133; *CAB*, p. 86.
- 40 This book was first printed on the margin of the book *Rahmat al-Ummah fī Ikhtilāf al-A'imma* of Ṣadr al-Dīn Abū 'Abd Allāh Muḥammad b 'Abd al-Rahmān al-Dimishqī in the year 1300 h. see *Findek*, p. 159. The full title of this work is *al-Mizān al-Khiḍriyyah fī al-fiqh 'alā madhhab al-Shāfi'iyyah*, and printed in 1276 h. *Ibid.*, p. 499.
- 41 It is given as [*fī bayān qawā'id akābir*]. see *al-Ghawwās*, p. 16. This has been corrected in the copy of *al-Manāqib* preserved at the University of Edinburgh. see *al-Manāqib*, p. 70.
- 42 This was first printed in Cairo in 1279 h. see *Findek*, p. 158; *Khalifah*, p. 1918.
- 43 *Khalifah*, pp. 1567 and 1573.
- 44 This work has been commented by Shihāb al-Dīn Aḥmad al-Ghanīmī (d. 1044 h.). see *Khalifah*, p. 1804.
- 45 *Pāshā*, *op.cit.*, 2:686.
- 46 It is given as [*Nūr al-Zāhir fī ajwibah 'inda al-Akābir wa al-Aṣāghir*]. see *al-Ghawwās*, p. 15.
- 47 *Khalifah*, p. 1360.
- 48 *Pāshā*, 2:242.
- 49 Though this title is mentioned without the author. *Ibid.*, 2:252.
- 50 *Ibid.*, 2:251.
- 51 *Ibid.*, 2:252.
- 52 *Ibid.*, 2:11.
- 53 *Ibid.*, 2:81.
- 54 This book was first printed in Cairo in the year 1277 h.. Then in 1305 h. this book was printed in two volumes along with his *al-Kibrīt al-Aḥmar* on its margin. see *Findek*, pp. 169 and 499; *CAB*, p. 87; *Khalifah*, p. 2054.
- 55 *Winter*, p. 8. Perhaps this is another name for the work entitled *Dīwān 'Abd al-Wahhāb al-Sha'rānī*. see *Slane*, pp. 567-8.
- 56 *CAB*, p. 85; *Pāshā*, 1:467.
- 57 He had abridged this work. see *al-Ghawwās*, p. 12; *al-Manāqib*, p. 67; *Pāshā*, 2:184.
- 58 *Khalifah*, p. 1224.
- 59 *Ibid.*, p. 1236.
- 60 This book was first printed in 1297 h. in Cairo. see *Mu'jam*, p. 1131.
- 61 Perhaps this work has been incorporated in *al-Mizān*. see *al-Mizān*, 1:54-63.
- 62 *Pāshā*, 2:715.
- 63 In *Kashf al-Zunūn*, it is given as [*ilā shurūt ṣuḥbat*]. It is stated that he did the abridgement of the same work in 100 folios and which consists of two divisions: the first

concerns with the *ṣuḥbah* of the 'ulamā' with the *amīr* while the second section is concern with the *ṣuḥbah* of the *amīr* with them. He completed this work in 979 h. see *Khalīfah*, p. 67.

64 *Al-Ghawwās*, p. 15.

65 This book was first printed in two volumes in 1281 h. in Cairo. see *Findek*, p. 498. The second edition of this book was revised and corrected by Naṣr al-Ḥūrīnī in 1865. *CAB*, p. 85; *Khalīfah*, 1492.

66 *Khalīfah*, p. 1488.

67 i.e.: *al-Mizān*. see *al-Ghawwās*, p. 13; *CAB*, pp. 85-6; *Khalīfah*, p. 1555.

68 This is popularly called *al-Mizān al-Kubrā al-Jāliyyah li al-Surūr wa al-Bushrā* and was first printed in 1288 h. see *Mu'jam*, p. 1132.

69 It is given as *Ṭabaqāt al-Sādat al-Akhyār*. This work was first printed in 1292 h. in Cairo. see *Findek*, pp. 108 and 498; *CAB*, p. 86. In this book al-Sha'rānī mentions about 422 personalities which include 24 *ṣaḥābah*, 95 *tābi'īn*, 17 women, 200 savants and 86 pious contemporaries. see *Khalīfah*, p. 1567.

70 *Ibid.*, p. 1640. It is given as *madārik al-Sālikīn ilā rusūm ṭarīq al-'Arifīn*. see *al-Ghawwās*, p. 16.

71 *Khalīfah*, p. 1869.

72 *Ibid.*, pp. 1687-8.

73 *Pāshā*, 2:599.

74 This book was first printed in 1279 h. in Cairo. see *Findek*, p. 170; *CAB*, p. 86.

75 *Al-Ghawwās*, p. 15.

76 Perhaps this might be his abridgement of al-Suyūṭī's *al-Khaṣā'is al-Nabawīyyah*. see *Khalīfah*, pp. 705-6; *al-Ghawwās*, p. 13.

77 This is the abridged version of *Kitāb al-Mudawwanah al-Kubrā*, the Mālikite legal text. see *Khalīfah*, p. 1644; *al-Ghawwās*, p. 13.

78 This is the abridgement of Ibn al-Mundhir's *Kitāb al-Tarḥīb wa al-Tarḥīb*. see *al-Manāqib*, p. 69.

79 This is the abridgement of Badr al-Dīn Muḥammad b 'Abd Allāh al-Zarkashī's *al-Qawā'id fī al-Furū'*. see *Khalīfah*, p. 1359. This book has been edited by Ibrāhīm Shaykh Ishāq for his Master Degree in the Islamic University of Madīnah al-Munawwarah. see *Turāth*, (1986).

80 This is also called *Mukhtaṣar al-Tadhkirah fī aḥwāl al-Ākhirah*. This book was first printed along with the book *Qurrat al-'Uyūn wa mufarrij al-Qalb al-Maḥzūn* of Abū al-Layth al-Samarqandī, on its margin in the year 1304 h. see *Findek*, p. 170; *CAB*, p. 87.

81 This book was first printed on the margin of *Kitāb kāmīl al-Ṣinā'ah al-Ṭibbiyyah*, in the year 1294 h. see *Findek*, p. 217. Al-Suwaydī is Ibrāhīm b Muḥammad b Turkhān al-Anṣārī, a famous medical doctor and philosopher from Aḥālī in Damascus. He died in 690 h. In this book the author (i.e.: al-Suwaydī) mentions the opinions of the famous medical doctors on various diseases and their cure. *Ibid.*, pp. 218 and 225; *CAB*, p. 87.

82 *Khalīfah*, p. 1794. Perhaps this is the work referred to in *al-Mizān*. see *al-Mizān*, 1:11.

83 *Khalīfah*, p. 1356.

84 *Pāshā*, 1:557.

85 *Khalīfah*, p. 596; *Kaḥḥālāh*, 6:218.

86 He has also a abridged version of it. see *al-Manāqib*, p. 70.

87 *Pāshā*, 2:89.

88 This has been written on the margin of the copy of *al-Manāqib* preserved in the Library of the University of Edinburgh. see note 41 above.

89 *Pāshā*, 1:323.

90 This work was first printed in Cairo in 1278 h. see *Findek*, p. 170. The title is also given as *Tanbih al-Muftarrīn fī qarn al-'Ashir 'alā mā khālafū fīhi salafuhum al-Ṭāhir*. On its margin was printed the work of al-Ghazzālī entitled *al-Kaṣh fī al-Tabyīn fī ghurūr al-Khalq ajma'in*, in 1310 h. see *Mu'jam*, p. 1130; *CAB*, p. 87; *Khalīfah*, 1:488.

91 *TBM*, p. 36; *Khidwīyyah*, 6:139 and 7:37; *Dār*, 6:184; *Mu'jam*, p. 1131.

92 *MA*, p. 102; *DAPT*, 3:391-2; *CAB*, 1:87; *Vatican*, p. 193; *Mosul*, p. 53; *IQ*, 2:187; *Khidwīyyah*, 2:144-5; *Dār*, 1:376; *Azhar*, 3:352-3; *Vivantes*, p. 372; *VAH*, p. 175-6;

Bankipore, 2:366-7; *Nuskh*, p. 369; *NUC*, 49:278; *Mu'jam*, p. 1134; *Mosul*, p. 53; *Afandī*, p. 34; *Ashir*, p. 53; *Daftar*, p. 31; *Hammd*, pp. 69-70.

93 Unable to locate.

94 *Mingana*, pp. 112-3; *HOM*, p. 91; *Khidwiyah*, 6:180, 7:36 and 135-6; *DI*, 2:225; *Khizānah*, p. 105; *Slane*, pp. 411-2 and 421; *Bankipore*, 4:158-9; *Wakf*, p. 150; *Mosul*, pp. 63 and 124; *Daftar*, p. 253 and 256; *Sindah*, p. 68; *Basmalar*, p. 143; *Princeton*, p. 480; *Garrett*, pp. 552-3.

95 *Chester*, 7:103; *Dār*, 1:336; *DI*, 2:169; *Wakf*, p. 283.

96 *Chester*, 4:76; *Khidwiyah*, 2:65; *Azhar*, 3:536 and 574; *PAM*, 13:130-1; *Vivantes*, p. 279.

97 *MA*, pp. 101 and 194-5; *DAPT*, 3:224-6; *CAB*, 1:86-7; *Khidwiyah*, 3:283-4; *Dār*, 1:543; *DI*, 3:146-7; *BM*, pp. 175 and 308; *NUC*, 541:636; *Batavia*, pp. 150-2; *Madras*, p. 507; *Vivantes*, pp. 325 and 377; *PAM*, 19:112-3; *Amijah*, p. 19; *Daud*, p. 46; *Sindah*, p. 30; *Basmalar*, pp. 68-9; *Osman*, p. 105; *Mu'jam*, pp. 1133-4; *Findek*, pp. 158-9.

98 *Khidwiyah*, 3:283; *Dār*, 1:543; *DI*, 3:146-7; *Vivantes*, pp. 325 and 377; *Basmalar*, p. 68.

99 *Khidwiyah*, 2:108; *NUC*, 49:278.

100 *Khidwiyah*, 2:88; *Dār*, 1:319; *Gotha*, pp. 164-5.

101 *Khidwiyah*, 7:14-5; *Azhar*, 3:617.

102 *IQ*, p. 89; *Azhar*, 3:674; *Mosul*, pp. 75 and 89; *Daftar*, p. 256.

103 *Oster*, pp. 132-3; *CAB*, 1:85 and 87; *IQ*, 2:175; *Chester*, 5:85-6; *DCOM*, *op. cit.*, p. 31; *Khidwiyah*, 2:104; *Dār*, 1:344; *Azhar*, 3:617; *Wakf*, p. 146; *Mosul*, p. 123; *Vatican*, pp. 227-8; *Ashir*, p. 33; *Basmalar*, p. 69; *Osman*, p. 143. However, its full title is [*fī bayān 'ulūm al-Kashf al-Shaykh al-Akbar*], see *Qūniyyah*, p. 201-2.

104 *CAB*, 1:87; *IQ*, p. 89; *Dār*, 1:281; *Azhar*, 3:553-4; *Mosul*, p. 154; *Afandī*, p. 81; *Ashir*, p. 30; *Basmalar*, p. 68; *Osman*, p. 133; *Mu'jam*, p. 1130; *Findek*, p. 159; *Garrett*, p. 241.

105 *Khidwiyah*, 2:69; *Dār*, 1:269; *Azhar*, 3:541; *Wakf*, p. 134; *Basmalar*, p. 67. However, it is also given as [*fī ma'rifat ādāb*], see *Mu'jam*, p. 1130.

106 *MA*, p. 85; *DAPT*, 3:379-81; *Chester*, 1:42; *DI*, 2:282; *Azhar*, 3:624-5; *Mosul*, p. 156; *Rabat*, p. 146; *Madrid*, p. 128; *Mu'jam*, p. 1132; *Garrett*, p. 171; *NUC*, 49:272.

107 *DAPT*, 3:392-3; *Khidwiyah*, 2:133; *Dār*, 1:357; *Azhar*, 3:627-8; *Gotha*, pp. 173-4; *Bankipore*, 4:158-9; *Vatican*, p. 192; *Basmalar*, p. 69; *LAM*, p. 77; *Salā*, p. 306.

108 *IQ*, 2:188; *Dār*, 1:271; *Azhar*, 3:542-3; *BN*, pp. 24 and 103; *Vivantes*, p. 325; *Wakf*, p. 278; *Daftar*, p. 91; *Basmalar*, p. 67; *Princeton*, p. 479; *MMA*, (1963), p. 208; *Mu'jam*, p. 1130.

109 *CCO*, pp. 2282-3; *Bankipore*, 4:158-9; *Vatican*, pp. 194-5; *Rabat*, p. 190; *Garrett*, p. 241.

110 *CAB*, 1:87; *DI*, 3:28; *Basmalar*, p. 68; *Mu'jam*, p. 1133.

111 *Chester*, 7:183.

112 *CAB*, 1:185; *Dār*, 1:139; *Vivantes*, p. 363; *Ibadan*, p. 5; *Ashir*, p. 32; *Basmalar*, p. 68; *Osmān*, p. 67; *NUC*, 49:278; *Salā*, p. 146.

113 *CAB*, 1:185; *IQ*, pp. 188-9; *DI*, 3:315; *Azhar*, 3:566; *Bankipore*, 4:150-1; *Ashir*, p. 71; *Daftar*, p. 94; *Basmalar*, p. 68; *Chicago*, p. 14.

114 *Oster*, pp. 31-2; *CAB*, 1:86; *IQ*, pp. 173-5; *Khidwiyah*, 2:78 and 120, 7:36-7; *Azhar*, 3:558-9; *Mosul*, p. 122; *Ashir*, p. 30; *Basmalar*, p. 68; *Chicago*, p. 14.

115 *Azhar*, 3:574 and 630.

116 *Mu'jam*, p. 1130; *SAP*, p. 104; *DI*, 1:99; *Garrett*, p. 241.

117 *Khidwiyah*, 2:61-2 and 113; *Dār*, 1:261; *Azhar*, 3:531; *Wakf*, p. 132; *Afandī*, *op. cit.*, p. 77.

118 *Khidwiyah*, 2:72; *Dār*, 1:274.

119 *Khidwiyah*, 2:154; *Dār*, 1:290; *Slane*, p. 239; *IGM*, p. 385; *Osman*, p. 134.

120 *Osman*, p. 233.

121 *DAPT*, pp. 387-8; *Khidwiyah*, 7:2, 36 and 136; *Azhar*, 3:599; *BN*, pp. 276-7.

- 122 *Khidiyyah*, 2:102, 7:36; *Dār*, 1:343; *BN*, p. 37; *Ashir*, p. 32; *Princeton*, pp. 479-80.
- 123 *Mosul*, p. 138.
- 124 *Khidiyyah*, 7:36-7.
- 125 *Ibid.*, 7:152-3.
- 126 *Dār*, 1:301.
- 127 *CAB*, 1:86; *Azhar*, 3:566, 592 and 638; *Khidiyyah*, 2:210; *Vatican*, pp. 190-1; *Basmalar*, p. 69.
- 128 *Slane*, pp. 567-8.
- 129 *Dār*, 1:37; *Madras*, pp. 108-9; *Ahmadiyyah*, p. 456.
- 130 *CAB*, 1:86; *Dār*, 5:320; *Vivantes*, p. 362; *Wakf*, p. 230; *Ahmadiyyah*, p. 464.
- 131 *MA*, pp. 275-6; *DAPT*, 2:351-2; *CAB*, 1:86; *IO*, p. 204; *Chester*, 5:34, 7:98-9; *TBM*, p. 34; *Dār*, 5:192; *Azhar*, 3:540; *Vivantes*, p. 362; *Slane*, pp. 364-5; *IGM*, p. 434; *VAH*, pp. 17-21; *Wakf*, pp. 275 and 281; *Mosul*, pp. 52 and 72; *MT*, pp. 70-1; *Rabat*, pp. 214-5; *Zāhiriyyah*, 6:288-9; *Ahmadiyyah*, pp. 463 and 466; *Afandī*, p. 136; *Sindah*, p. 45; *Basmalar*, p. 45; *Osman*, pp. 131 and 141-2; *Mu'jam*, pp. 1131-2.
- 132 *DAPT*, 3:398-9; *CAB*, 1:85-6; *Chester*, 5:41-2; *Khidiyyah*, 2:107-8; *Dār*, 1:351; *Azhar*, 3:623-4; *Codicum*, pp. 65-6; *Mosul*, p. 88; *Hammd*, p. 36; *Basmalar*, p. 68; *Osman*, p. 144; *SAP*, 104; *Mu'jam*, p. 1132.
- 133 *MJK*, 30(1986-2):501-74.
- 134 see al-Makanāsī, Aḥmad Muḥammad, *Fihris al-Mu'allifin wa al-'Anāwīn*, (Taṭwān, 1952), p. 176.
- 135 *SAP*, p. 104; *Mu'jam*, p. 1132.
- 136 *GALS*, 1:619.
- 137 *Ibid.*, p. 751; *Bankipore*, 13: 843.
- 138 *Mu'jam*, p. 1131.
- 139 *Ibid.*
- 140 It is said that Naṣr b Muḥammad al-Samarqandī wrote a book entitled *al-Mukhtalif fi al-Fiqh bayna Abī Ḥanīfah wa aṣḥābiḥi*, about 70 folios of this work has been edited by Muḥammad al-Sayyid Ḥusayn 'Alī for his Master Degree at the Islamic University of Madīnah al-Munawwarah. see *Turāth*, (1986):15.
- 141 see Yūsuf, Abū, *Ikhtilāf Abī Ḥanīfah wa Ibn Abī Laylah*, ed. by Abū al-Wafā Afghānī, (Cairo, 1357 h.).
- 142 This is the last book he wrote. See al-Munajjid, Dr. Ṣalāḥ al-Dīn, (ed.), *Sharḥ Kitāb al-Siyar al-Kabīr li Muḥammad b al-Ḥasan al-Shaybānī (as commented by) Muḥammad b Aḥmad al-Sarakhsī*, (Cairo, 1957), p. 11. It is also called as *Siyar al-Maghāzī*. [*Ibid.*].
- 143 This is the first work written on *ikhtilāf al-madhāhib*. *Ibid.*, pp. 9-10.
- 144 *Al-Umm*, op.cit., 7:96
- 145 *Ibid.*, 7:333.
- 146 *Ibid.*, 7:305.
- 147 *Ibid.*, 7:191.
- 148 He is Abū al-Farj Muḥammad b Ishāq called Ibn al-Nadīm, died in 380 h. see Minovī, Mojtabā's introduction to *Kitāb al-Fihrist of An-Nadīm*, 2nd. ed., (Tehran, n.d.).
- 149 Unable to locate.
- 150 Ibn Nadīm comments that so far no work greater than this has been written. *Fihrist*, p. 272.
- 151 He is Aḥmad b Naṣr al-Marwazī. *Ibid.*, p. 266.
- 152 *Ibid.* The first half of this work has been edited by Muḥammad Ṭāhir Ḥakīm Ghulām Rasūl for his Master Degree at the Islamic University of Madīnah al-Munawwarah. see *Turāth*, 27(1986):15.
- 153 Unable to locate.
- 154 *Fihrist*, p. 267.
- 155 *Ibid.*, p. 292. This work has survived only in a few parts (*ajzā'*). Prof. J. Schacht published the following parts of the book in 1933 at Leiden: *Kitāb al-Jihād* and *Kitāb al-Jizyah*

wa *Aḥkām al-Muḥāribīn*. While F. Kern edited and published in Cairo in 1902, the following parts: *Kitāb al-Mudabbār*, *Kitāb al-Buyū'*, *Kitāb al-Ṣarf*, *Kitāb al-Salam*, *al-Muzāra'ah wa al-Musāqāt*, *Kitāb al-Ghasab*, and *Kafālah wa al-Damān wa al-Hawālah*.

¹⁵⁶ This work has been traced in the Escorial manuscript No. 1514 and consists of 24 folios.

¹⁵⁷ He was a disciple of al-Muzanī and al-Rabī', a disciple of the former. *Fihrist*, p. 266.

¹⁵⁸ *Ibid.*

¹⁵⁹ Sayyid, Fu'ād, *Fihrist al-Makḥūṭāt bi jāmi'ah al-Duwal al-'Arabiyyah*, (Cairo, n.d.), 1:328-31. Hereafter cited as *Fu'ād*.

¹⁶⁰ *Turāth*, 32(1987):13. Dr. Abū Ḥammād Ṣaghīr Aḥmad Ḥanīf of the Islamic University of Madīnah edited the following chapters from this work for his Ph.D.: *jināyāt*, *dīyāt*, *qasāmah* and *al-murtadd*, while the chapter on *ḥudūd* was edited by him for his Master Degree. *Ibid.*, 4(1982):34.

¹⁶¹ See also al-Bayhaqī, Abū Bakr Aḥmad b al-Ḥusayn, *Bayān khaṭa' man akhta'a 'alā al-Shāfi'ī*, ed. by Dr. al-Sharīf Nāif al-Dā'is, 2nd ed., (Beirut, 1986), p. 50.

¹⁶² This is also called as *al-Mustazharī*, because it was written for the 'Abbāsīd Khalīfah al-Mustazhar bi Allāh. see *Fu'ād*, *op.cit.*, 1:286.

¹⁶³ *Ibid.*, 1:322.

¹⁶⁴ *Ibid.*

¹⁶⁵ He is Muḥammad b Muḥammad b Muḥammad b Abū al-Faḍl Burhān al-Dīn, born around 600 h. and died in 687 h. See al-Safadī, Ṣalāḥ al-Dīn Khalīl b Aybek, *Kitāb al-Wāfi bi al-Wafayāt*, ed. by Hellmut Ritter, (Istanbul, 1931), 1:282-3. Hereafter cited as *Safadī*. He has also written a book entitled *al-Muqaddimah al-Nasafiyyah* or *al-Muqaddimah al-Burhāniyyah fī al-Khilāf*, see *A'lām*, 7:31.

¹⁶⁶ This work has been edited with an introduction by Dr. Muḥammad Ṣaghīr Ma'sūmī of the Institute of Islamic Research (Pakistan) and was published by them both in their Arabic Quarterly and as a book.

¹⁶⁷ It is mentioned that Ibrāhīm b Muḥammad al-Sarawī wrote a book on *al-Khilāf*. See *Safadī*, 6:122, *Mu'jam*, 1:108.

¹⁶⁸ al-Idfawī, Ja'far b Tha'lab Kamāl al-Dīn Abū al-Faḍl, *al-Ṭālī' al-Sa'id al-Jāmi' li asmā' al-Fuḍalā' wa al-Ruwwāt bi a'lā al-Ṣa'id*, (Cairo, 1914), p. 421.

¹⁶⁹ He is qāḍī Sirāj al-Dīn Yūnus b 'Abd al-Majīd b 'Alī b Dāwūd al-Hudhalī, born in 644 h. and died in 725 h. *Ibid.*, pp. 421-3.

¹⁷⁰ Lokhandwalla, S.T., *Kitāb ikhtilāf uṣūl al-Madhāhib of Qāḍī Nu'mān b Muḥammad*, (Simla, 1972), p. 42.

¹⁷¹ *Fu'ād*, *op.cit.*, 1:27.

¹⁷² *Ibid.*, 3:200-1.

¹⁷³ *Garrett*, p. 228.

¹⁷⁴ He is Abū al-Walīd Muḥammad b Aḥmad b Rushd, popularly known in the Medieval West as Averoes, born in a Spanish family of Cordova in 520 h.. He died at Marrākush in 595 h. and was buried in Cordova. For details see Nyazee, Prof. Imrān A.K., *Ibn Rushd: The Distinguished Jurist's Primer - a translation of Bidāyat al-Mujtahid*, (Reading, 1994), 1:xxviii-xxix.

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